App. F. IX-4

Previous References

1934.
(Miscl)

File No. 56-30

Serial Nos. 1--4

Later References

Mesc 331-32 - 1-4

General and Revenue Secretariat.

Serial Nos. 4.

Part B for April 33.

SUBJECT.

Right claimed by Patel Dyave Gowda of Jagarahalli and others of Baladere of Channaraya apna Taluka to take the idol of Kattari to their villages for Rathotsava etc.

6.
The Mesc Comm.
no 1375 of 3 & 33
Finalised as appeal &c

GENERAL AND REVENUE SECRETARIAT.

(Mug.)

NOTES.

File No. 56-30

FILE HEADING.

Right claimed by Patel Dyave Gowda of Vagarahalli and others of Baladare of Channarayapatna taluk to take the idol of Kattarighattadamma of Kattarighatta to their villages for Rathotsava etc.

FROM

Patel Dyave Gowda and others — thro' their advocate Mr. C. Lakshmana Gowda.

No. Appeal. Dated 28-7-30. Received 28/7/30.

Diary No. 148	Enclos.	Spare copies	Serial No 1

BRIEF ABSTRACT OF LETTER

Appealing against the Mug. Comr's order dismissing the appeal of the appellants against the order of the Dy: Comr. Hassan declining to recognise their right to take the idol of Kattarighattadamma to their villages for annual Rathotsava.

NOTES AND ORDERS.

1) The Mug. Commissioner's order appealed against is dated 15th Feb 1923. May the appeal be allowed for the reasons stated in the penultimate paragraph of the appeal petition? Submit for orders.

MSK 5/7/30

The Chief Court is reported to have disposed of the case on 6-2-1930

H. Secy)

2) 1.8.30

3) Records may be called for with a report from the M.C. 7/8/30.

admitted? 4

Notes—First Sheet.

General and Revenue Secretariat. Mug File No. 56 of 1930-1

Serial No.

Bf. Subd with a draft for above
Qs Mdl 4/8
5-Issue VS 7.8.30

To.
The Mez Coms
No 296 q. 7-8-30
Forwards the petn in sl 1 & calls for a report with records

2

3 Letter No 25.2/30-31 dy 23.1.1931 from the Mangalore Commissioner forwarding records relating to the right of Patel Dyadegowda and others of Vagamanahalli Channarayapatna Taluk to take the idol of Kallarighatta deity to their Village and stating that the facts of the case are fully set forth in the Deputy Commissioner's order in Appeal No 1 of dy 10.7.22.
Vide also para 4 of order No C 371/22-23 dy 15/2/23 passed by me in the matter. The Amildar of Channarayapatna was directed to see whether a Compromise

NOTE—Contn. sheet.

WD 066—GPB—30,000—26-7-29

Muzarai S of 30-31

App. F. III—2]

General and Revenue Secretariat. Mzg File No. 56 of 1928

Serial No.

R.

11 MAR 1931 No. 345

Could be effected so as to revive a Sevva which has long fallen into disuse. The report of 16.4.23 made before Amildar purports that efforts have been made by him in this direction have been futile. The Institution is a muzarai having been endowed with Inam lands. (Vide the preamble portion of the appeal preferred before the D.C. Honsur. Flag 9)

This a point for consideration if the case may be posted for hearing to see whether a Compromise is forthcoming here.

Q.S MSK 10/3/31

H. Leey) 5) 10.3.31

1st member) 11/3/31

9) Case may be posted for hearing along with other cases on the date fixed for this

10) Case called on 23rd March 1931.

The Appellants were represented by their Lawyer Mr. Lakshmana Gowda: the Respondents were not present.

596 24/3

NOTE.—Contn. sheet.

WD 066—GPB—30,000—26-7-29

Fresh

General and Revenue Secretariat | Muz. File No. 56 of 193 0.

Serial No.

12) Fresh notices may be issued and the case posted for hearing on a date fixed for disposal of Muzrai cases.

16 MAY (1)
No... 1766

12a Case called on 16th May 1931.

13) The ~~petitioners and~~ appellants were present and were also represented by their Lawyer Mr.Lakshmana Gowda: Respondents were not present though notices were served on them, nor were they represented by any Counsel.

14) The presence of the Respondents is desirable for proceeding with the case as it is one whic is best settled by an amicable understanding between the two parties. The case is accordingly adjourned and it may be posted for disposal on the next hearing date. While serving fresh notices, it is necessary to impress upon the Respondents that they have absented themselves twice and that they must be present on the next hearing date. The ~~Respondents~~ Appellants Counsel suggested that Patel Mari Gowda alias Kari Gowda may be included among the Respondents. He appears to be an important person for the disposal of this case and he might also be served with summons.

16/5/31

NOTE—Contn Sheet.

WD 02353—G PB—50,000- 8 7 30

File No of 193

General and Revenue
Secretariat

Serial No.

15 Case heard on 27th July 1931.

16 The Appellants were represented by their Lawyer Mr. Lakshmana Gowda and the Respondents by Mr. Shamanna.

721/2815

---

17 The temple is a Muzrai and therefore a public institution. The Respondents cannot refuse facilities for worship asked for by the Appellants. This is, however, a matter in which it is desirable that the two parties should come to an amicable understanding. They have been advised to have the matter settled by reference to a committee of representatives ~~taken~~ from the several villages. The two lawyers have agreed to advise their clients and report the understanding arrived at in about a month.

28/8/31

GS 27/8/7

18) On 28.9.31, the Concerned Advocates were reminded to send us their replies before 1.11.31 - Reply from Mr. C.K. Gowda is received on 4-10-31. A copy of this was sent to Mr. Koramane - Shamanna on 20-11-31. No reply in this office & Nil reply is the opinion of the Counsel suggested by Mr. Gowda & no reply has been received subsequently -

4325

GS 23/1

I Reminder)

Please send this to Counsel -

Note—Count Sheet

Misc Appl 15 of 30-31 re: Taking
3 Kattarighattadanumatu to the Munsiff
of Nagamangala & Badadare Channegowda etc.

Misc File No 56 of Nagamangala of 1930 General and Revenue Secretariat

20 O/h Jan 1931 Issued

6564

28 MSK
27/1

21 Issue for 29/1

Issued vem in ormo 1049 & 30/1/32

Sent 1/2/32

22 This case was again heard on 25th April 1932.

23 The Appellants and their Lawyer Mr. Lakshmana Gowda were present. The Respondents were not present though notices have been served upon them.

---

24 Mr. H. Subba Rao appeared on behalf of the Respondents' Lawyer Mr. Shamanna and stated that the Respondents could not be present on account of some festival and asked for an adjournment. The Respondents were not present on the previous occasion also when this case was heard and their present request for an adjournment cannot be complied with.

25 The parties were advised to settled their differences by compromise. The appellants made an offer, but the respondents have not responded. The proposal of the appellants was sent to the respondents' ~~xixx~~ lawyer and he was asked to report what his clients had to say. So far no report has been received. The respondents' lawyer may be informed that no report has yet been received from him in reply to the communication with which a compromise offer of the appellants was forwarded to him and that if his clients do not effect a

Muzappl 5 of 30-31 re: Kattaingkaladayanea being taken to Balasore & Vazeya Kallei Dikshaj Chandrasekharabharathi for personal purpose.

General and Revenue Secretariat Muz. File No. 56 of 193 0

Serial No.

compromise arrangement with the appellants and report it within a ~~fortnight~~ month, orders will be passed upon the appeal without allowing any more time.

Mun. 25/4/32

H. 26/4/32

26 D/f sd

GS 26/4

27 Issue 27/4/32

No. 1577 of 29.4.32 from Manager Shanmuga Advocate Pamphlet Coy. intimating that orders will be passed on appeal if no report is received within a month.

28) No reply has been received from the respondents' lawyer. The time allowed (forty days in which to send reply to notice) is over. Put up for orders.

GS 4/6

First Member 31)

We may wait for a month more. These Compromise proposals are never settled quickly

7/6/32

Sub Bhe 1st June 32.

JUNE 1932 8059

NOTE—Contn Sheet.

WD 70—GBPM—60,000—13-5-31

Mem abpl S of 30-31 re: taking Kattarigatha devamma
to Vaguahalli Hpuladare Village: Chamarajpet
Tk for annual Rathotsava purposes —

File No. 56 of 1930. General and Revenue Secretariat

Remin re petition of S. 10. 32 from Mr C. Lakshmana
Govt Advocate for the appellants praying
for the issue of early orders in the Case.
Bl Bl remitted to the Advocate for
The respondents is Invited

GS 14/10

32 No remmbr Memo
necessary. The respondents
are evidently heedless of the result.
Perhaps orders may be passed on
the appeal petition.

14/10/32

From Secy)
18. MR)

29/10

32) We may wait for
Some time more Say Three months
more
20/10/32

21/10

The appellants to claim the privilege of taking the idol of Kattarigattadamma of the Kattarigatta Village to their Villages for purposes of Rathotsava and urge that this privilege is supported by Mamool. The Deputy and Mysore Commrs have held that this privilege, even if it was exercised in the past, has fallen into desuetude for a very long period and have therefore declined to permit its revival. This dispute is best settled by agreement between the parties.

OFFICE
Finl Br
20 OCT. 1932
No. 9392

SECRETARY
15 OCT. 1932
No 1447

General and Revenue Secretariat Mazr File No. 56 of 1930.

Serial No.

as is stated to have been done once before in 1883 and this course was suggested to them in July 1931 No report of any such settlement has so far been received and apparently there is no prospect of an amicable understanding between the parties being arrived at. It is not desirable to introduce an innovation in a matter like this, except with the consent of the parties concerned The concurrent orders of the Deputy and Mazrai Commissioners must in these circumstances stand. The appeal is dismissed-

mwl 25.3.33

6072

85 Wkh filed
G.S 24/3

Put up fair draft please 2/ 24/3

37 Fair Ord recd
G.S 27/3
Fair Secy)

For approval
2/ 27/3/33

Mr 28/3.
2/ 28/3

1st Mar)

mwl
26/3/33

Mr 2/ 28/3

OFFICE OF THE FIRST MEMBER OF COUNCIL
24 MAR. 1933
No. 6227

NOTE—Contn. Sheet.

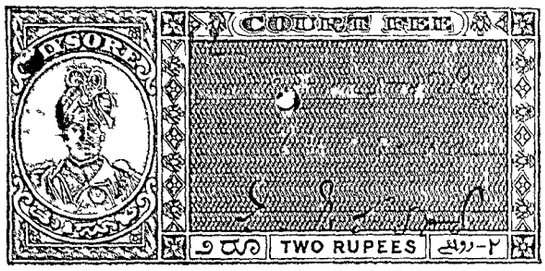
WD 70—GBPM—60,000—13-8-31

File No 56 of 193 0 | General and Revenue Secretariat

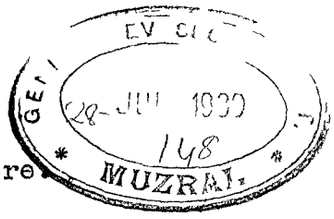
No 1395 & 30th April 1933 to the Municipal Commissioner forwarding Copy of the decision in the Case. | 4

Memo No 1396 & 3/4/33 to Mr C. Lakshmanan Govt Advocate for the appellants forwarding Copy of the decision in the appeal case No 1397 & 3/4/33 to Mr Kanaga Shanmuga Advocate for the respondents intimating the orders in the Appeal Case.

B 12/4



28.7.30



Before the Govt. of H.H. The Maharaja of Mysore.

Muz. Ap. 5 of 1930-31.

Applts.- 1. Patel Dyave Gouda, son of Chikke Gouda, of Vagarahalli, Chennarayapatna Taluk,

Muz 56-30

2. Kale Gouda, son of Sidde Gouda,

3. Javare Gouda, son of Chande Gouda,

4. Bore Gouda, son of Nanje Gouda,

5. Sanne Gouda, son of Ninge Gouda,

6. Bore Gouda, son of Dyave Gouda, 2 to 6 of Baladare, same Taluk.

vs.

Respts.- 1. Mari Gouda, son of Kale Gouda,

2. Putte Gouda, son of Subbe Gouda,

3. Mallig Gouda,

4. Shanbhog Ramaswamiah, Brahmin,

5. Besthara Bombayi Javaranna,

6. Kempe Gouda, son of Bore Gouda, all residents of Kattarighatta, Dandiganahalli Hobli, Chennarayapatna Taluk.

The applts. above-named beg to appeal against the annexed order of the Muzrai Commissioner d. 5-2-1923 dismissing the appeal of the applts. against the order of the Deputy Commissioner, Hassan, declining to recognise their right to take the idol of Kattarighattadamma to their villages for the purpose of the annual rathothsava as per previous mamool (as claimed by them in their petition d. 5-4-1912), on the following grounds:-

1. The D.C. has, in remarking in his order that "the petrs. have by their own admission been excluded from their right, if any, to take the deity for the last 16 years", fallen into the obvious error of not noticing that out of this period the period from 5-4-1912 the

(P.T.O.)

date of the petition to the "Court of the Magistrat Chennarayapatna Taluk" which initiated the proceedings, to 11-7-22 the date of the D.C's order, has to be excluded, making the period of exclusion to amount only to 6 years - the period mentioned in the petition itself being "8 or 9 years", so that the petr^s' rights were alive and not barred under art. 1[illegible] of the Limitation Regulation - which seems to be the idea underlying the decision.

2. As regards limitation for this appeal, the applts. respectfully beg to submit as follows:-

(i) The applts. were not favoured with any endorsement by the Muzrai Commissioner about the disposal of the appeal, nor were they otherwise aware of the disposal of the appeal till they applied for a copy of the order through counsel, but were under the honest belief that inasmuch as, following the direction of the D.C. - a suggestion which is found repeated by the Muzrai Commissioner - they filed O.S. 11 of 1923-24 before the Munsiff of Holenarsipur for a declaration of their rights as claimed before the Muzrai authorities, and (in belief) that the Muzrai Commissioner must have kept the disposal of the appeal before him ~~prior~~ in abeyance pending the final disposal of the said suit.

(ii) The said suit was finally disposed of against the applts. by the judgment of the Chief Court d. 6-2-1930 on the grounds that (a) the Muzrai Authorities had jurisdiction to grant the necessary reliefs and that hence the Civil Courts were not competent to try the suit, and (ii) that the period of litigation before the Muzrai Authorities, viz., from 5-4-1912 to 11-7-1922 could not be excluded for the purpose of the Civil suit as the proceedings before the Muzrai Authorities were administrative and not judicial in character. At the same time there evolves from this

litigation the important fact that the particular right claimed by the applts. has been found by the judgment of the 1st Court to be proved to the hilt, a finding which remains undisturbed by the judgments of the two appellate Courts: vide pp. 7 and 8 of the print record.

(iii) After the judgment of the Chief Court was delivered, the steps leading up to the preparation and filing of this appeal involved more than one conference between the applts. - who are of distant Chennarayapatna Taluk - and their counsel, and deep study and thought by the latter as to the further steps to be taken, the obtaining of the copies of the judgment of the Chief Court (36 days) and later on, of the order of the Muzrai Commissioner, (6 days).

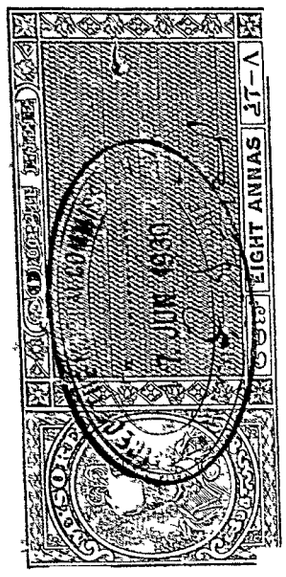
(iv) The applts. respectfully submit that, inasmuch as the rights claimed by the applts. are not rights of private property but of worship of and service to the deity, and as the exercise of such (just) rights on the one hand ~~do~~ does not in any way injure the respdts. and on the other hand would increase the prosperity of the temple, and as their not taking steps to acquaint themselves as to the disposal of their appeal to the Muzrai Commissioner is due to the fact that they were bona fide litigating in the Civil Courts as above, ~~that~~ as it is just and equitable that such delay as there is in filing this appeal should be condoned and the appeal disposed of on the merits, and humbly pray for orders accordingly.

The applts. file herewith a copy of the printed record of S.A. 119 of 1927-28 containing inter alia the judgments of the two Lower Courts, as also a copy of the judgment of the Chief Court, for kind perusal.

Lakshmana Gowda

Adv. for applts.

28-7-1930.



Order of the Muzrai Commissioner in Mysore :—

Reference :—

Letter No. 158-22/H.C. dated the 30th October 1922 from the Deputy Commissioner, Hassan District, reporting on the appeal petition of Siva Nanjegowda and others of Vagavanahi and Baladare villages, Cheunarayapatna Taluk, against the order of the Deputy Commissioner declining to recognise their right to take Kattanigattadamma to their villages from Kattanigatta for purposes of Rathotsava etc and submitting the records connected therewith.

Order No. C. 371 of 22-23 Dated Bangalore, 15th February 1923.

The appellants claim the privilege of taking Kattanigattadamma to their villages for Rathotsava etc in virtue of a Kattadaka of 16th April 1883 The Deputy Commissioner in his order of 10th July 22 declined to recognise the right on the ground that there was no clear evidence as to how long the Kattanigatta people were giving their deity to the people of other villages in pursuance of the Kattadaka, that the appellants have slept over their right for 16 years and the right-

usage has been in dispute for a long time. He directed that they may, if willing, establish their right in a Civil Court in the first instance and then approach him for relief

2 The appellants urged in their petition that the Deputy Commissioner's order was quite opposed to manual and the panchayets' award ie Kattadaka had the full force of a decree of a Competent Court.

3. The Advocates both on behalf of the appellants and respondents were heard on 30th January 1923. The alleged right of the appellants has been in disuse for 16 years and cannot be enforced by the Revenue department except by order of a Civil Court. The appeal is therefore dismissed.

4 The Deputy Commissioner, is, however, requested to direct the Amildar of Channarayapatna to see whether the opposing parties cannot be brought to agree to a Compromise by which the seva which has long been in disuse might be revived

Sd/ K. Chandy
Revenue Commissioner

Typed & The Deputy Commissioner
Hassan District returning the records
received with his letter

16

Copy applied for by Mr. C. Lakshmana Gowda
Copy ready on 12-6-30
Copy delivered on 17.6.30
No. of words 220
Copying fees. 0-6-0
Comparing fees 0-1-0
Paper cost-0-0-3
Copied by S Jayaramadas
Compared by Bhadramanaik

"Copy"

G. Avalappa
17.6.30
for Manager
Mus. Com's Office

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S. A. No. 119 of 1927-28

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PLAINT.

IN THE COURT OF THE MUNSIFF OF HOLENARSIPUR.

Original Suit No. 11 of 1923 - 24.

Plaintiffs :—Residing at Vagarahalligrama, Dandiganahalli Hobli, Chennarayapatnada Taluk, Gangadikara Vokkaligar by caste :—

1. Dyavegowda, aged about 70 years, son of Hanumanthegowda. 2. Sivananjegowda, aged about 60 years, son of Kalegowda 3. Patel Dyavegowda, aged about 35 years, son of Chikkegowda. 4. Nanjegowda, aged about 35 years, son of Marigowda.

Residing at Baladare, of the said Hobli and the said Taluk, and belonging to the said caste :—

5. Sannegowda, aged about 70 years, son of Ningegowda. 6. Nanjegowda, aged about 70 years, son of Kalegowda. 7. Boregowda, aged about 60 years, son of Nanjegowda. 8. Kalegowda, aged about 50 years, son of Siddegowda. 9 Patel Javarigowda, aged about 40 years, son of Chandegowda. 10 Boregowda, aged about 40 years, son of Dyavegowda.

Defendants :—Residing at Kaththaraghatta of the said Hobli :—

1. Patel Putta Javaregowda, aged about 60 years, son of Marigowda Gangadakar Vokkaligar by caste. 2. Marigowda, aged about 60 years, son of Kalegowda. 3. Puttegowda, aged about 40 years, son of Subbegowda. 4. Malligowda, aged about 70 years. 5. Shanbhog Ramaswamiah, aged 50 years, Smartha Brahmin by caste. 6. Bombai Javaranna, aged about 60 years, Besthar by caste, residing at the said place. 7. Pujari Gowdiah, aged about 40 years, son of Thammanna, of the said caste. 8. Pujari Eranna, aged about 50 years, belonging to said caste. 9. Kempegowda, aged about 50 years, son of Boregowda, Gangadikar Vokkaligar by caste, residing at the said place. 10. Patel Puttasamigowda, aged about 50 years, son of Chikkiregowda, Halu Matha Heggadigalu by caste. 11. Thammanna, aged about 60 years, son of Chikkiregowda, belonging to the said caste. 12. Doddanna, aged about 40 years, son of Kelagalahatti Hucha belonging to the said caste.

I. Plaintiffs 1 to 4 are the leading persons among the inhabitants of Vagarahalli and plaintiffs 5 to 10 are the leading persons of Baladaregrama. Defendants 1 to 9 are the leading persons of Katharaghatta grama and defendants 10 to 12 are the leading persons of Savadarahalli village. These (defendants) are the chief persons among those who are interested in denying the right of these plaintiffs' suit.

II. The procession idol of the Goddess, by name Devamma, placed in the mud-roofed temple in Kattharaghattada village, is the family deity of the people belonging to the caste of the plaintiffs and the defendants 1, 4, 6, 7 and 12. These people have got the common right and also right to procession, car festival, festivals, Jatra and offerings in respect of Harike (ಹರಿಕೆ ಒಪ್ಪಿಸುವುದು).

III These plaintiffs and the said defendants, who are devotees, have constructed and also repaired the original temple, situated near Mudalakodi, outside the village Katharaghatta and also the said temple which is inside the village, by collecting the money in their respective villages.

IV. The plaintiffs and defendants have got the right of performing the car procession, Parases and Jatras of the said deity, as per mamool, from a very long time.

V. There is a custom existing from a very long time of performing

as is said above, car procession, Jatras, Parases and procession of the deity, in the month of Chitra of every year for three days.

VI. One month, prior to the performance of the said processions, such as Jatra etc, there is a custom and right among these people of performing the procession in every village, of taking the procession deity to their respective places and performing its procession for a period of a month and then bringing and placing the deity in the temple situated in Khattharaghatta village of the defendants 1 to 9, by turns in the following manner :—

Of the residents of 4 villages mentioned above, the residents of the village of Vagarahalli of the plaintiffs 1 to 4 should perform for one month in the first year ; the residents of the village of Bal hare, of the plaintiffs 5 to 10 should perform for one month in the 2nd year ; e residents of the village of Savudharahalli of the defendants 10, 11 and 12 s uld perform for one month in the 3rd year ; the residents of the village of Katharaghatta of the defendants 1 to 9 should perform for one m onth in the 4th year. Further, the collections in the respective years, derived from the offerings made by the villagers to the deity, at the time of taking it in procession in the villages mentioned above, must be utilised for the expenses of the car festival conducted by those respective villagers

VII. The plaintiffs have a right, as per mamool, to take the procession deity to the villages, one month prior to the car festival, as mentioned above, to conduct the procession for the period of a month and to make the four villages to construct a car for each village to take it to the place appointed, to place the idol in the car according to the usual custom and conduct the procession and Jatra for three days commencing from a Thursday.

VIII. All the defendants in collusion have denied the customary rights of the plaintiffs. The defendants 1 to 9 have refused to give the procession idol to the plaintiffs, and the residents of their village and have denied their rights. Therefore, this suit has been brought to obtain a declaratory decree for establishing this rig ht.

IX. As the defendants have refu sed to give the procession idol to the plaintiffs and the residents of their village unjustly and without any reason, the plaintiffs filed a complaint in the Muzrai department. Two endorsements dat ed 11—7—22 and 13—8—22 were received fro m the Muzrai officer, Hassan District and Muzrai Commissioner, respectively in which it is stated that a necessayr order will be passed in the mat ter of causing the procession idol, which is connected with the Muzrai department, to be given to the plaintiffs, only when those plaintiffs get this title established in a Civil Court. Therefore the cause of action accrues for the establishment of this right, i.e., for only obtaining a declaratory decree. Hence this suit has been brought.

X. As the power to cause the said deity to be given to the possession of these plaintiffs fro n t ie defendants, is vested in the Muzrai Officer, Hassan District, only a relief of declaration has been sought.

XI. Cause of action accrues fro n 12—7—19 22 and 17—8—22, at Kattharaghatta village, which is within the jurisdiction of this Court.

XII. The value of the suit for the purpose of jurisdiction and Court fee is Rs. 100-0-0.

XIII. Prayer for judgment :—

It is prayed that a declaratory decree may be passed declaring,

(a) that the plaintiffs and the residents of the village have a right, to get possession of the proceseion idol of the deity, Devamma alias Kaththaraghattadamma, in mud-roofed temple in Kaththaraghatta village, Dandigna hobli, Channarayapatna Taluk from the defendants 1 to 9 and to perform for one month procession one month previous to the car festival to take place in the month of Chitra in the first and second years, and also declaring that the plaintiffs have got a right to join with the defendants, to set up the procession idol in their car and to

perform the procession commencing from a Thursday up to the evening of Saturday, according to the usual custom and to obtain possession of the procession idol from the defendants 1 to 9 for the same. (The Court fee for the sake of this relief is Rs 15);

(b) and directing that the Court costs of the suit must be paid to the plaintiffs by the defendants;

(c) and also granting such other reliefs to the plaintiffs, which the Court may deem fit to grant from time to time, according to the nature of this suit.

It is prayed that a judgment may be passed in the above terms.

(Sd) K. Garudachar,
Pleader for plaintiffs.

Dated 9—7—1923.

The relief sought for through Court .—

is prayed for a decree, chiefly declaring that the plaintiffs have got right in the following manner :—

The plaintiffs 1 to 4, i.e., the residents of Vagarahalli have got right to perform for one month in the 1st year and the plaintiffs 5 to 10 i.e., the residents of Baladare, to perform for one month in the 2nd year the procession of the idol of Kattharagattadamma, which is in mud-roofed temple in Katharagatta village, Dandignahalli Hobli, Channarayapatna Taluk, in the car festival in the month of Chitra of the respective years, which is one month previous to the car festival and to perform the same commencing from a Thursday of the said Chitra up to the evening of Saturday according to the usual custom, joining with the defendants and setting the said idol in their respective cars and to get possession of the said procession idol for the above purpose from defendants 1 to 9.

(Sd.) N. G. Karigirivasan.

Written statement of the defendants 1, 3, 5, 6 and 8.

1. Besides the defendants from 1 to 9, there are many other prominent people at Khattharighatta. The 3rd defendant's name is Chandegowda.

2. The allegation in para 2 of the plaint is not true. There is no connection whatever between the plaintiffs, the defendants 10 11 and 12 and the goddess Devamma in Khattharigatta village. As stated in para 2 of the plaint, they have not got any right.

3. The allegation in para 3 of the plaint is not true. The villagers of Khattharighatta raise subscriptions in the village and build, repairs the temple which is outside the village, through Government.

4. The allegation in para 4 of the plaint is not true. As stated therein, no kind of right exists either for the plaintiffs or the defendants 10, 11 and 12.

5. The allegation in para 5 of the plaint is not true. These defendants have the practice of celebrating the Jatra and procession in the month of Chitra for only two days.

6. The allegation in para 6 of the statement is not true. The residents of the plaintiffs' village and the residents of Samudravalli have never taken the procession deity outside. They hav'nt got the right or title of taking it like that. As either the plaintiffs or the residents of Samudravalli have not enforced their alleged right of taking and carrying the procession idol for more than 12 years prior to this suit, it must be considered that they have lost

that right, even if it be supposed that they have got a right. Therefore, plaintiffs' suit is barred by limitation.

7. The plainfiffs have not got the right mentioned in para 7 of the plaint They are all false and they have concocted them.

8. The plaintiffs have added the residents of Samudravalli, as their defendants, in order that it may be favourable to their suit. Neither the said residents of Samudravalli nor the plaintiffs have got any rights, and title, mentioned in the plaint.

(Sd.) R. S. Sreenivasiah,
Pleader for defendants.
19—11—23.

9. There is no reason to cause, the procession deity, which belongs to the residents of Kattharighatta, to be given to others. As the plaintiffs and the residents of Samudravalli, by getting up false letters and documents with the evil intention of creating a non-existing right, filed a complaint to the Muzrai department, their complaint was dismissed.

10. The District Muzrai Officer, Hassan, has dismissed both the petitions of the plaintiffs and residents of Samudravalli with the remarks, "The petitioners have by their admission been excluded from their right, if any, to take the deity for the last sixteen years." Therefore, it is obvious, that by the plaintiffs' own admission, their suit is barred by limitation.

11. The fact mentioned in para 10 of the plaint, is not just. The Muzrai Officer, Hassan District, has no power to cause the procession deity of these defendants' village, to be given to the plaintiffs. If he had such power, he might himself have settled it. Therefore, it is evident, that from the allegation made by the plaintiff in para 10 of their plaint, this suit is not maintainable.

12. Both from the consideration of law and fact, this plaintiffs' suit brought in this present condition cannot be maintained.

13. The goddess Devamma, in Katthara ghatta village, belongs only to the residents of Kattharaghatta and not to the plaintiffs or others.

14. The plaintiffs, according to their plaint, are not entitled to any of the reliefs in the suit. All the allegations in the plaint, contrary to this statement, are quite false.

15. For these and other reasons, it is prayed that these plaintiffs' suit be dismissed with costs for these defendants.

The defendant's addresses as mentioned in the plaint are all correct.

(Sd.) Patel Javaregowda.
(Sd.) Chandegowda.

x L. T. mark of Java ranna.
x L. T. mark of Eranna.

(Sd.) Ramaswamiah.

Plaintiffs' reply to the defendants' statement.

1. The statement by the defendants that the allegations in paras 2 to 10 of the plaint are false are absolutely dishonest and false.

2. As stated in the plaint, the plaintiffs and other villagers together have the entire right of taking the procession idol of Kattharaghattadamma, and performing its service at the time of car festivals.

3. In the year 1882, a complaint was filed in the matter of the said right, in the Muzrai department, and everything has been done according to the order received by the Sheikdar.

According to the "Kattadaka" (concession deed) executed jointly by the residents of four villages, to the panchayetdars, the right which mentioned

n the plaint is established. The denial by the defendants of such a right of service to the goddess is a quite dishonest one.

4. This suit has been brought, within one year from the date of passing of the order permitting the plaintiffs to file the suit in the matter of the right, mentioned in the plaint. The cause of action is correct. The suit is not barred by limitation.

5. The residents of the plaintiffs' village have got right of taking the suit procession idol only at the time of car festival. But the defendants did not conduct the car festival, from a very long time, i.e., from past 18 years. Therefore there was no necessity for these plaintiffs to take out the procession deity. Therefore this suit is within the period of limitation.

6. The allegations which are contrary to the plaint and this reply, are all false.

On solemn oath we affirm that the statements said above are all true.

(Sd.) Javaregowda.
L. T. mark of Sonnegowda.
L. T. mark of Sanna Nanjegowda.
L. T. mark of Chandegowda.

IN THE COURT OF THE MUNSIFF OF HOLENARASIPUR.

Original Suit No. 11 of 1923-24.

Dated the 30th day of August 1926.

Present : —G. Krishnamurthi Esq., B.A., LL.B., Munsiff.

Plaintiffs :—1 Dyavegowda. 2 Sivananjegowda. 3 Dyavegowda. 4 Nanjegowda. 5 Sannegowda. 6 Nanjegowda. 7 Boregowda. 8 Kalegowda. 9 Javanegowda. 10 Boregowda.

Defendants :—1 Puttajavanegowda. 2 Marigowda 3 Puttegowda, 4 Maliggowda. 5. Ramaswamiah. 6 Javanannagowda. 7 Poojarigowdayya. 8 Poojari Eeranna. 9 Kempegowda. 10 Puttasamigowda. 11 Thammanna. 12 Doddanna.

Judgment.

1. The suit is for a declaration of the plaintiffs' right to take the diety called Devamma and to conduct its car procession.

2. The suit was filed on 9—7—23 and posted for final hearing to 13—8—23. The statement of defendants 1, 3, 5, 6 and 8 was filed on 19—11—23. The reply was filed on 3—12—23. The following issues were framed on 17—3—24 :—

(1) Are the plaintiffs entitled to associate with the defendants in conducting the Jatra of the diety ?

(2) Are the plaintiffs entitled to take the procession diety on to the villages for the purpose of taking it in procession as per para VI of the plaint ?

(3) If so, have they lost their rights on account of disuse for over twelve years before suit ?.

(4) Are the plaintiffs entitled to take the diety in procession for three days in the chariots as per para VII of the plaint ?

(5) Are the plaintiffs entitled to the declaration prayed for ?

(6) Is the suit as brought not maintainable ?

(7) To what reliefs are the plaintiffs entitled ?

3 The suit came on for evidence to 13—11—24, 20—1—25, 5—8—25, 25—11—25, 18—3—26 and 14—7—26. Arguments heard on 9—8—26 and the case was reserved for judgment.

4. The facts are briefly as follows :—

5. There is a temple in Kathrighatta village of the diety called Kathrighattamma and an idol called Devamma kept inside the same village, and this latter is the procession diety or Uthsavadevaru of the former.

6. Plaintiff's case is that the villagers of the 4 villages, Vaganahalli Baladare, Samudravalli and Kathrighatta are devotees of this Goddess and have the rights of partaking in the conduct of its annual car procession. The details of this annual function is detailed in para of the plaint. These villages have the rights by yearly turns in the order stated above of taking this Devamma to their village and to other villages, for one month prior to the car festival to collect subscriptions for the conduct of the festival and then to take in procession this goddess in each of the cars which these 4 villagers had to bring during the three days commencing from Thursday in the month of Chaitra. The defendants are stated to have denied this right of plaintiffs and to give this procession diety to them and their petition to the District Muzrai Officer and to Muzrai Commissioner to get them the idol have been dismissed and the petitioners have been referred to the Civil Court. Hence this suit to have the declaration of their rights. The plaintiffs are said to be the chief men of the villages of Vagarahalli and Bala Ihare.

7. The alleged chief men of the villages of Kathrighatta and Samudravalli have been impleaded as defendants. Defendants 10 to 12 who represent the latter village have not entered appearance. It is the rest who are of Kathrighatta that contest the suit. They deny any right in any of the other three village people to any of the rights claimed, which they say is entirely and exclusively vested in Kathrighatta people. They deny that the right claimed by plaintiff was ever exercised by them and that consequently even if it existed is barred by time. They have also taken a technical objection that the suit as brought is not maintainable.

8. On what ground this technical objection is taken is not clear from the pleadings. It is not argued that that objection is based on the ground that the institution being a Muzrai institution this Court is precluded from taking a cognizance of the suit relating to the affairs of such an institution. It is admitted that the institution is a Muzrai one. The plaintiffs seek to get over the objection on the ground that the suit was necessitated by the Muzrai officer's requiring a decision establishing their rights in a civil Court before they could give them the relief wanted and as such the suit is competant. Exhibits A and B are the endorsements which plaintiffs have got in this matter and Exhibits I and II, the copy of the orders themselves. These orders, no doubt, require the petitioners (plaintiffs) to obtain an adjudication of their rights in a civil Court and declining to enforce any right that the plaintiffs may have. Though this is so, I do not think that plaintiffs could maintain the suit for this reason. This is virtually a refusal by the Muzrai Officers to exercise a jurisdiction which they admit they have There is no provision in the Muzrai which enables a Muzrai Officer to refer such question to a civil Court decision or ask the parties to get such admission. The only provision in that regulation which authorises a Muzrai Officer to refer any matter to the civil Court himself or authorise the parties to file a suit is contained in Section 4 and 6, but the matter which could thus be referred is specifically stated in it and the one in dispute now has no kinship with it. If therefore this dispute could have been disposed off by the Muzrai Officer, his asking the parties to get the decision of a civil Court could not confer jurisdiction on this Court.

9. It still remains to see whether apart from that order, this Court is precluded from taking cognizance of this suit. The section which sets a limit on the jurisdiction of a civil Court is the last section in the Regulation and it runs as follows.

10, "In all matters in which a Muzrai Officer or Government has power to pass any order or to take any action Civil Courts shall exercise jurisdiction only to the extent allowed by this regulation." If therefore the Muzrai Officer or the Government had power to pass an order in the matter or to take

any action in it, this suit cannot be instituted in this Court The question is have they such power ? It must be noted that the power referred to in the section is not stated to be one conferred by the Regulation itself. Nor is there any section or rule defining what powers the Muzrai officer of or the Government with respect to the Muzrai institutions. The scheme of the Regulation shows that its main object is the preservation and supervision of the properties of religious and charitable institutions and of trusts, vide section 13, 14, and to provide for the management of the affairs of such an institution. Sections 8 and 9 also empower to hold enquiries about the mismanagement of charitable institutions and pass suitable orders This power of supervision over the management is wide enough to include questions such as the one under notice. The District Muzrai Officer as also the Muzrai Commissioner have felt no doubt at all during all these 20 or 30 years during which this question is being agitated before them as to their competancy to pass orders in the matter; and they would apparently have passed the order but for the doubt they felt that because "the alleged right of the appellants has been in disuse for 16 years (it) cannot be enforced by the Muzrai Department except by order of a civil Court." For this there was no justification. If the Muzrai had authority to pass orders it claimed early, that power could not be taken away from them or require a civil Court decision to be enforced because it has been in, disuse for over 16 years. It was encumbent on the same authority to consider the effect of such disuse also and pass an order one way or the other. One thing is certain. These authorities felt themselves competent to pass orders in the matter

11. Nor have the parties any doubt as to the power of the Muzrai Officer to grant the relief wanted Indeed the plaintiff when attacked that the suit for mere declaration without asking for the consequential relief of getting the image to them justified his position by stating that further relief was not within the competence of the Civil Court to grant and the Muzrai Officer would get him that relief. Nor have the defendant ever taken objection to the want of jurisdiction in the Muzrai Officers If the Muzrai Officer had the power to execute an order, it had power to pass that order too. For these reasons I hold that this is a case in which the Muzrai Officer had power to pass the order and the matter is thus taken out of the cognizance of the Civil Court. The suit therefore is not maintainable.

12. Though this finding is sufficient to dispose off the case I might record my opinion on the other issues also as full evidence has been recorded. Issue No. 1 is the general issue and the matter covered by it is specified in detail in issues Nos 2 and 4 and might be treated together. On these issues which relate to the merit of case on facts there could be but one answer and that in favour of plaintiff's. There is documentary evidence in abundance establishing plaintiff's case on each of the points raised, viz, the rights of taking the goddess in procession for one month by early terms, for taking it in their respective 4 cars on the 3 days of the car festival. The earliest document is of 1882 the submission kattaadaka of the 4 village people for the decision of panchayet dars and the latter decision These are marked Exhibits C and D. These documents are more than 30 years old and have been all along lodged in the file of the Taluk Office and there is no reason to doubt its genuineness There is also some evidence in proof of it The submission is proved to contain the signature of 1st defendant's father, vide Exhibit C(1). During a subsequent enquiry by the Amildar these documents have been admitted by some witnesses Exhibit III is a petition of 5-4-1912 filed by plaintiff and it is this that has started the enquiry recently. Exhibit E is a statement by one Lakkegowda who is since dead. He was an arbitrator giving the award Exhibit D and Exhibit E He affirms the truth of Exhibits C and D and says that from 10 or 12 years previous to 1914 these have stopped doing Seva Exhibit G, a statement of another person of Kathrighatta given in 1917, also admits the kattadaka, but says that for some years previous to his statement, its terms are not given effect to. Exhibits L and M, statements of 1st defendant and a deceased Archak of the temple also suggest that the plaintiffs had the

right they claim now. Exhibits F, J and K also prove that the plaintiffs had deposited some amount for the repair of this Kathrighatamma temple and the villagers of Kathrighatta also concede that plaintiffs have some responsibility to contribute for its repair. It is a reasonable inference where a party is held liable to bear a burden, he is also clothed with some right over it. This documentary evidence is supported by the oral evidence of plaintiffs' witnesses who all speak to the exercise of their right in the manner stated. This right which they claim is the same with that stated in Exhibit D. There could thus be no doubt that the plaintiff had the right which they claim now.

13. One contention which the defendants raise may be referred to Their case at any rate as made out in their evidence is that while the stable idol of Kathrighattamma is a Muzrai temple and these plaintiffs could have any Seva performed for it, the procession deity, Devamma, is the private property of Kathrighatta people and neither Government nor any other villagers have got any rights over it. This contention however suffers under serious drawbacks. For one thing this is not the case which is set forth in their written statement where no difference is made as to the rights in Kathrighatta and Dyavamma. In the next place though this dispute is over 40 years old this contention has apparently never been put forward till now. There again it is admitted that this Dyavamma is the only Uthsavamoorty for Kathrighattamma and the natural presumption is that two are subject to the same rights. This special case of defendants that Dyavamma is a separate institution and is not supported by any reliable evidence, either documentary or oral. That the idol was got made by Kathrighatta people is not made out. Being the only procession deity, the entire dispute all these 40 years about taking the procession deity over villages and in the car must have raged only with regard to it, and the fact that during all these years, this theory c rivate ownership of this procession deity and its being unconnected with k ghattamma is not put forward at all must raise grave suspicions about h. The explanation of 1st defendant, defendants' witness 6, that he did state it because he was not asked is entirely unconvincing D witness 6 answers that this procession deity and its jewels are subj inspection of the Revenue Officers just as Kathrighattamma cuts the ground out this story I answer issues 1, 2 and 4 in the affirmative.

14. But this finding does not avail the plaintiff as their case has to fail on the point of limitation also. It is an admitted fact that uninterruptedly for the past 20 years, the plaintiffs have notperformed any uthsava nor exercised any of these rights. All the plaintiffs' witnesses are agreed in this. This is not only a case of mere "non user" but non-exercise of the rights owing to prevention on the part of defendants. Plaintiffs' witnesses 1, 5, 6 and 7 say that 20 years ago, they asked defendant to give them the goddess and that the defendants refused. This is also made clear from the allegations in the plaint itself. In para VIII, it is expressly stated that defendants 1 to 9 denied this right. Exhibit III, which is a petition by plaintiffs, also mentions that the plaintiffs demanded Kathrighatta village people and the latter refused to do so, and that this was 7 or 8 days prior to that petition of 1912. Exhibit E also is to the same effect and goes to show that plaintiffs are prevented from exercising their right from 10 or 12 years prior to that statement in 1914. It is thus clear that from 1910, at least, the plaintiffs have not exercised any right at all and that for the reason that Kathrighatta people have been denying their right and preventing them from doing so.

15. In these circumstances Article 131 of Limitation Regulation would clearly apply which provides a period of 12 years to establish a periodically recurring right from the time when the plaintiff is first refused the enjoyment of the rights and the first refusal in the case was not taken than 1910 and is more than 12 years before suit. It was however pointed out that according to the decision in 38 Mad. 916 this article does not apply where the suit is as in this case merely to declare the, right, but only where consequential relief is also asked for. But with all due

difference there is nothing in the wording of the article itself to warrant such a restriction of its application, vide the opinion of Rustumji. In my opinion the article applies. There is the "demand by plaintiff and refusal" by defendant requires the application of this article.

16. Even assuming that this does not apply, the only other article that could be applied is Article 120, residuary article, and the application of even that article does not result in a different conclusion for the plaintiff. That article gives 6 years from the time when the right to sue accrues and that right accrued for the plaintiffs when their right was denied by defendant 20 years ago and they were prevented from its exercise. In this view also, plaintiffs' suit is barred.

17. Plaintiffs suggest that Article 14 applied. But that in my opinion has no application whatsoever. There is no order of an Officer of Government which is sought to be set aside in this case.

18. It was also suggested that defendants too have not performed the car festival and so no cause of action had arisen for the plaintiff, what is barred. Even assuming that defendants too have not performed the car festival that does not prevent the time running against plaintiffs. It is not the non-performance by defendant that gives the cause of action, but the denial of plaintiffs' right and the prevention of the exercise by them of their rights that is the cause of action for plaintiff. The plaintiffs have waited too long to obtain any relief in a Civil Court I hold the plaintiffs' suit is barred by time, and plaintiff is not entitled to the declaration asked for.

19. The result is that plaintiffs' suit is dismissed with costs of defendants 1 to 9.

In open Court.

(Sd.) G. Krishnamurti.

List of witnesses ex itiffs :—

(1) Sivananjegowda, (2) da, (3) Nanjegowda, (4) Sannaobegowda, (5) Nanjegowda, (6) la, (7) Javaregowda, (8) Ramaiya.

List of witnesses examined for the defendants :—

(1) Kempegowda (9th defendant), (2) Sreekantiah, (3) Dyavanna, (4) Venkataramanegowda, (5) Puttegowda alias Chendegowda, (6) Javaregowda (1st defendant).

(Sd.) G. Krishnamurti.

List of documents admitted in evidence for the plaintiffs :—

Exhibit A.—Endorsement from the Muzrai Commissioner to Nanjegowda and Chennegowda of Vaganahalli and Baladare of Chennarayapatna Taluk.

Exhibit B.—Endorsement from the Deputy Commissioner dated 11—7—22 to the villagers of Vaganahalli.

Exhibit C.—Kattadaka dated 16—4—1883.

Exhibit C(1.)—Signature in Exhibit C.

Exhibit D.—Caution marked on the back of Exhibit C

Exhibit E.—Statement dated 30—3—14.

Exhibit F.—(ತಾಲ್ಲೂಕಿನ ಜಮಾ ಪರಾ).

Exhibit G.—Statement of 4th defendant in the Taluk Office, Chennarayapatna, on 28—11—17.

Exhibit H.—Mahazar dated 5—2—18 by the residents of Kattarighatta.

Exhibits H(1) and H(2).—Attestations marked in Exhibit H.

Exhibit J.—Petition dated 10—1—1903 by the residents of Khattarighatta village.

Exhibit J(1) Attestation in Exhibit J.
Exhibit K.—Muchalika dated 6-12-1896 by the residents of Khattarighatta village.
Exhibit K(1).—Attestation in Exnibit K.
Exhibit L.—Statement of the residents of Khattarighatta dated 11—6 1914.
Exhibits L(1) and L(2).—Attestation in Exhibit L.
Exhibit M.—Statement of Maridyavegowda of Khattarighatta village dated 11—6—14.
List of documents admitted in evidence for the defendants :—
Exhibit I.—Copy of the order of the Deputy Commissioner, Hassan District, in Appeal No. I of 1921-22.
Exhibit II.—Copy of the order of Muzrai Commissioner in Mysore.
Exhibit III —Application dated 5—4—19 to the Taluk Magistrate of Chennarayapatna.

DECREE.

In O. S. No. 11 of 23—24.

This suit is for a declaration of the plaintiffs' right to take the deity called Devamma and to conduct its car procession, etc.

This suit coming on for final hearing this day before G. Krishnamurti Esq, B.A., LL.B., Munsiff, in the presence of Mr. N. G. Karigirivasan, for the plaintiffs, and Mr. R. S. Sreenivasiah for the defendants 1, 2, 3, 5, 6 and 8, and the others treated as ex-parte, it is ordered and decreed that plaintiffs' suit is dismissed with costs for the defendants 1 to

It is further ordered and decreed, as per memorandum hereunder, that defendants 1 to 9 do recover from the plaintiffs a sum of Rs. 11-6-0 only being the Court costs incurred by them in this suit.

O Court seal.

(Sd.) G. Krishnamurti.

Dated 30th August 1926.

Memo of costs.

		Rs.	a.	p.
Plaintiff's costs ...	....	70	8	0
Costs of the defendants 1 to 9	...	11	6	0

The amount to be recovered by the defendants 1 to 9 from the plaintiffs is Rs. 11-6-0.

IN THE COURT OF THE ADDITIONAL SUBORDINATE JUDGE AT MYSORE.

R. A. 126 of 1926—27.

Dated 31st day of October 1927.

Present :— N. G. Lakshminarasimha Iyengar, Esq., B.A., B.L., Additional Sub-Judge.

Appellants :—1. Dyavegowda, 2. Sivananjegowda, 3. Dyavegowda, 4. Nanjegowda, 5. Sannegowda, 6. Nanjegowda, 7. Boregowda, 8. Kalegowda, 9. Patel Javaregowda, 10. Boregowda (plaintiffs).

Respondents.—1. Patel Putta Javaregowda. 2 Marigowda. 3. Puttegowda. 4. Malegowda, 5. Shanbhogue Ramaswamiah. 6. Bombayee Javaranna. 7. Poojarigowdiah. 8. Poojari Erannah. 9. Kempegowda. (defendants.)

Appeal against the judgment and decree in O. S. 11 of 23— 24 on the file of the Munsiff of Holenarasipur dated 30—8—1926.

Judgment.

1. The suit was for a declaration that the plaintiffs and the people of their villages were entitled to take the processional diety (ಉತ್ಸವಮೂರ್ತಿ) of Devamma alias Kaththrighattadamma in the Maligegudi at Kaththarighatta from the possession of defendants 1 to 9 during 2 consecutive years every 4 years about one month before the car festival in t e month of Chaitra and take it in processi n through various villages and celebrate the car festival along with the defendants from Thursday to Saturday night and for recovery of costs from the defendants.

2. The plaint allegations are that plaintiffs 1 to 4 were the leaders of the people of the village of Vagarahalli and plaintiffs 5 to 10 leaders of those of Baladare village and defendants 1 to 9 leaders of the village of Kaththarighatta and defendants 10 to 12 the leaders of the village of Sondrahalli, that the female processional deity of Devamma in the Maligegudi of the village of Kaththarighatta was the family diety of the people belonging to the caste of the plaintiffs and defendants 1, 4, 6 and 7 to 12 who had a right to celebrate the car festival and jatra, etc., and who had got the temple of the fixed deity near the eastern kodi outside the village of Kaththarighatta as well as the Maligegudi temple of the processional diety in that village and also got them repaired out of the subscriptions collected by them in their villages; that the plaintiffs and defendants had the right of celebrating the car festival and Jatra of the aforesaid diety jointly from long every year for 3 days during the month of Chitra; that one month before the commencement of the Jatra, the villagers of Vagarahalli (the village of plaintiffs 1 to 4), Baladare (the village of plaintiffs 5 to 10) Sondarahalli (the village of defendants 10, 11 and 12) and Kaththarighatta (the village of defendants 1 to 9) were entitled to take the deity by turns once in four years in order in procession in various villages for a month and collect the offerings of the villagers during the procession and bring back the deity to the Maligegudi and use the collections for the expenses of the car festival to be celebrated by them; that the car festival used to be celebrated for 3 days from Thursday to Saturday every year in 4 cars constructed by the villagers of each of the 4 villages; that the defendants 1 to 9 denied the plaintiffs' right to take the diety in collusion with the other defendants and refused to give the deity for them to take it in procession and hence the suit; that the cause of action for the suit arose on receipt of the endoresment of the District Muzarai Officer of Hassan dated 11—7—1922 and that of the Muzrai Commissioner dated 16—8—22 intimating the plaintiff in answer to their complaint against the defendants, that arrangements would be made to give the deity to plaintiffs after they established their right to the same in a proper Civil Court; that since the power to grant relief to the plaintiffs regarding the delivery of the diety to plaintiffs for the procession lay in the hands of the District Muzrai Officer, Hassan, only a declaratory decree had been prayed for.

3. Defendants 4, 10, 11 and 12 were ex-parte. Defendants 1 and 2 and 3 to 9 denied the right of the villagers of the villages of the plaintiffs and defendants 10 to 12 to the deity of Devamma; that the temples were built and being repaired by the villagers of Kaththarighatta through the Government out of the public subscription and the plaintiffs and defendants 10 to 12 had nothing to do with them; that the Jatra in Chitra was being celebrated by the defendants 1 to 9 alone for 2 days only and not by plaintiffs and defendants for 3 days that the plaintiffs and defendants 10 to 12 never took the deity from Kaththarighatta during any year and their suit had been barred by time since they had not exercised any such right for more than 12 years before suit; that the District Muzrai Officer of Hassan had no right to give the deity of the contesting defendants to the plaintiffs and if he had any such right he might have himself decided the dispute; that the suit as brought was not maintainable; that the deity in question belonged to Kaththarighatta people and none else and that the plaintiffs were not entitled to any relief and that the suit should be dismissed with costs.

4. The issues were :—

(1) Are the plaintiffs entitled to associate with the defendants in conducting the jatra of the deity ?

(2) Are the plaintiffs entitled to take the procession deity out to villages for the purpose of taking it in procession as per para 6 of the plaint ?

(3) If so have they lost their rights on account of disuse for over 12 years before suit ?

(4) Are the plaintiffs entitled to take the deity in procession for three days in the chariots as per para 7 of the plaint ?

(5) Are the plaintiffs entitled to the declaration prayed for ?

(6) Is the suit as brought for not maintainable ?

(7) To what reliefs are the plaintiffs entitled ?

5. The Court of Ist instance passed a judgment and decree dismissing the plaintiffs' suit with costs on 30-8-26. The present appeal was filed in the District Judge's Court on 3-11-26 and the same was transferred to this Court on 6-6-27 for disposal.

6. The main point for decision in this appeal is if the suit is maintainable. The learned Munsiff has held that the suit is not maintainable because the subject matter of the suit is one in which a Muzrai Officer or Government has power to pass an order or take action and as such the suit is not maintainable under the provisions of Section 38 of the Mysore Muzrai Regulation read with Sections 6 and 12 of the said Regulation. I am of the opinion he is right. Further I doubt very much if the suit is of a civil nature within the meaning of Section 9 of the C. P. C., since it is not based on any right to the property in the idol or to an office The decision in Lake Nath Misra vs. Dasarath Tewari 32, Cal. 1072, the facts of which appears to be similar to those in the present case to a great extent, is a clear authority on the point. I am therefore of the opinion that the suit is not maintainable, even irrespective of the provisions of the Muzrai Regulation, I. L. R., 8 Mad. 23 is also in point. 12, Mys. C. C. 255 and 267 and 18 Mys. L. R. page (i) relied on by the learned Advocate for the appellants do not help him since all those cases relate to the right of a pujari of a temple and are suits involving right to an office and as such of a civil nature within the meaning of Section 9 of the new C.P.C. On the other hand 12 Mys. C.C. 267 is an authority for the proposition that Civil Courts are precluded from taking cognizance of suit for the establishment of pujari rights in respect of temples under the control of the Muzrai Department on account of the provisions of the Chief Commissioner's Notification dated 26th October 1854 and not because they are not of a civil nature.

7. I am therefore of the opinion that not only for the reasons stated by the Munsiff but also for the reason that the appellants' suit is not of a civil nature, the suit should fail.

8. As regards the contention of the learned Advocate for the appellant that the lower Court ought to have excluded the period of time spent by the appellant in persuing his remedy before the Revenue Officers in calculating the period of limitation it is sufficient to observe that Section 14 of the Limitation Act requires that the proceedings must be "civil proceedings" and that they should be proceedings of a Court and that the period spent in purely administrative proceedings before the Collector (when not acting as a Court) cannot be excluded under Section 14, vide 49, I.C. 467.

9. In the result, the appeal fails and the same is accordingly dismissed with costs.

Pronounced in open Court.

(Sd.) N. G. Lakshminarasimhaiengar.

Decree

The appellants above named appeal to the District Judge's Court at Mysore from the decree of the Munsiff of Hole-Narasipur in Suit No. 11 of 1923—24 dated the 30th day of August 1926, for the following reasons, namely :—

1. The lower Court has erred in holding that this suit is not maintainable. The lower Court has failed to notice that it is not in all matters connected with a Muzrai Institution that Section 38 of that Regulation precludes the jurisdiction of the civil Courts.

2. The lower Court has erred in holding that the plaintiffs' suit is barred by time and that they are not entitled for the declaration they have asked for.

3. The lower Court having as a matter of fact found in favour of the plaintiffs that they are entitled for the relief they ask for should have excluded the time the plaintiffs spent in litigating bona fide over this right before the Muzrai Department who have refused to grant them the relief asked for in computing the period of limitation against the plaintiffs.

4. The decision of the lower Court is opposed to law and facts of the case.

Value of this suit for purposes of Court fee. Being one for declaration stamps of the value of Rs. 15 are produced herewith.

This appeal coming on for hearing on the 21st day of September 1927 before N. G. Lakshminarasimhiengar Esq., B.A., B.L, Additional Sub Judge, in the presence of Mr. G. Parthasarathy Iyengar for the appellants and Mr. S. Subba Rao for the respondents 2, 3, 6, 9 others absent. It is ordered and decreed that this appeal be and the same is hereby dismissed with costs.

The costs of this appeal as detailed below amounting to Rs 7-8-0 are to be paid by the appellants (plaintiffs) to respondents (defendants) 2, 3, 9 and 9.

Given under my hand and the seal of this Court this 31st day of October 1927.

(Sd·) N. G. Lakshminarasimha Iyengar.

Memorandum of costs incurred in this appeal.

	By the appellants (plaintiffs)	By the respondents 2, 3, 6 & 9, defendants
	Rs. a. p.	Rs. a. p.
Total costs ...	32 6 0	7 8 0

(Inld.) N G. L.,
Addl. Sub-Judge.

IN THE CHIEF COURT OF MYSORE, BANGALORE.

S. A. No. 119 of 1927—28.

1.	Dyavegowda ...	1st appellant	.... 1st plaintiff
2.	Sivananjegowda ...	2nd do	.... 2nd do
3.	Dyavegowda .	3rd do	3rd do
4.	Nanjegowda ...	4th do	... 4th do
5.	Sannegowda ...	5th do	... 5th do
6.	Boregowda	6th do	. 7th do
7.	Kalegowda	7th do	... 8th do
8.	Patel Javaregowda ...	8th do	... 9th do
9.	Boegowda ...	9th do	... 10th do

1. Marigowda	.... 1st Respondent	2nd Defendant.	
2. Puttegowda	... 2nd do	3rd	do
3 Maligg›wda	... 3rd do	4th	do
4. Shanbhog Rama-swamiah	... 4th do	5th	do
5. Bombayi Javaranna	5th do	6th	do
6. Ke npegowda ...	6th do	9th	do

Under Section 100, Civil Procedure Code.

The appellants above named beg to appeal against the decree of the Additional Sub-Judge, Mysore in Regular Appeal No. 126 of 1925-27, confirming the decree of the Munsiff, Hole-Narasipur, in Original Suit No. 11 of 1923-24, on the following grounds :—

1. The lower Appellate Court erred in holding that the suit, which is one for declaring plaintiffs right to worship a deity in a particular way, is not one of a Civil nature.

2. The lower Courts have failed to notice that denial by defendants of plaintiff's rights as claimed in the suit which were both disputed and as yet not adjudicated upon, cannot be brought under the category of "gross and persistent mismanagement" for which alone provision is made in Sections 8 and 9 of the Muzrai Regulation, and have therewith erred in deciding that the matter is one which the Muzrai Officers had the power to adjudicate and pass orders upon.

3. The lower Court erred in holding that the suit is barred by limitation.

(i) The lower Appellate Court erred in holding that the time taken up by plaintiffs in litigating, with obvious bonafides on the Muzrai side, viz., from 5—4—1912 (date of Exhibit III) to 11—7—1922 (Exhibit B) was not liable to be excluded.

(ii) The lower Courts have failed to notice the effect of the acknowledgment of plaintiffs' rights as contained in Exhibit J (1903), L (1904) and H (1918), amongst other exhibits.

Valuation :—The suit being one for declaration, the Court fee payable on this appeal is Rs. 15 under Schedule II, Article IIA (i) of the Court Fees Regulation.

(Sd.) C. Lakshmana Gowda,

Deposition of Sivananjegowda, witness number 1 for plaintiff, taken this 5th day of 8—1925.

Age—60 years. Father's name—Kalegowda. Caste—Vokkaliga. Occupation—Girayat. Residence—Vagarahalli Taluk—Channarayapatna.

On solemn affirmation :—I am the second plaintiff. The family Goddess for Vagarahalli people is Dyavam na Devaru of Katharighatta. This deity is the Goddess for 4 villages, viz, Vagrahalli, Balidare, Katharaghatta and Souderehalli. There will be a car procession for this Goddess. Katharghatta people proclaim about its procession in all the 4 villages and all the people of the 4 villages used to go and make the jatra when the day was fixed. We used to go and ask Katharaghatta people to give us the procession God. There would be about 1 month before the day fixed for the car procession. This procession diety is in Katharaghatta and in the possession of the people of that village. We used to ask for the Utsavadevaru to take it over to village to make collections to meet the car expenses. The first year it was our village people who used to take out the Utsava diety for one month. The 2nd year it was Baladari village people and the 3rd year Souderhalli people and the 4th year Katharaghatta people who used to take out this Goddess over villagers for

one month before the car festival. We were doing so by turns. The car festival used to take place after Yugadi. The car festival used to take place for 3 days. After taking the Utsava devaru by the several villagers by turns the Goddess used to be taken back and kept in a tiled house in Katharighatta. Each year before the car festival Katharighatta people used to hand over the Utsava Goddess to our village, and we used to perform its Utsava in our village from morning till evening and then the Baledari people used to take the Goddess from us to their village and perform its Utsava all during that night The next morning Souderhalli people used to take the Goddess to their village and perform its Utsava till evening and then bring it back to Katharaghatta people. This has been so from lagayat. I am now 60 or 65 years of age For the past 20 years the Utsava and car festival is stopped and the Katharaghatta people have not been publishing the day of car festival. 8 or 10 years ago we went and asked Katharaghatta people to give us the Utsava deity but they said they had no leisure and would not perform the car festival and would also not give us the Utsavadevaru. We then complained to the Taluk Amildar and the Deputy Commissioner enquired into the matter and then we appealed to the Muzarai Commissioner who gave us an endorsement to have our rights settled in a Civil Court. Exhibits A and B are the endorsements given to our Lawyer Mr. Nanjundiah by the Muzarai and Deputy Commissioner Then we filed this suit. The temple of this Goddess for ಮೂಲದೇವರು is situated at the northern weir of Katharaghatta tank. The temple is built of mortar. The sirkar people collected Rs. 125 from each of the 4 villages and got the temple built about 3 or 4 years ago. Before that the temple was partly of mud and partly of mortar. The Utsavadevaru temple inside the village is also being repaired by the people of all the four villages. Forty years ago there was quarrel about this deity between the people of the 4 villages and Soudarahalli people had complaint against Katharaghatta people in the Taluk Office. Sheikdar Chowdappa was sent to enquire into the matter. That Sheikdar took Kattadaka from the chief men of the 4 villages He and panchayati settled the matter. [Mr. G. R. wants to put in a certified copy of the submission and award. But these are not public document and a secondary evidence of the award is not admissible in the absence although to get original. It is rejected. (Inld) G. K.] As per that decision, all the 4 villages performed the utsava and car festival for about 20 years. It is Katharighatta people who had to start the performance of the car festival and they did not do it for the past 20 years. Except Gowrichennegowda some of the persons who had met for that panchayati are now dead. Gowrichennegowda is old about 85 or 90 or 100 years old and cannot see. Sheikdar Chowdappa is also dead. Marigowda father of first defendant is also dead. Kalegowda father of second, Chikkegowda father of tenth defendant, Badgeregowda grand-father of tenth defendant are all dead.

Cross-examination :—Even now I have been going to the Mooladevaru temple at the kody. There is no obstruction to go to that temple Thousands of persons from Hassan, Manjarabad, Coorg and other places, come to perform seva in that temple. People are coming to that temple every year and are performing seva. This has not been interrupted. There are no dakhala to show that this temple utsavait belongs to people of the 4 villages. The Mooladevaru temple is a Sircar temple. It is a Muzrai institution. There are Sircar Inam lands in Katharaghatta for this temple. Except the 4 villages, none others gave funds to build this temple. This is a big temple. I do not know if it has cost Rs. 20,000 to build it. I cannot even roughly state. They say that the ancestors of the people of the 4 villages built the temple originally. I cannot say who did so. The building 3 or 4 years ago was done by Kodappa. I do not know if Kodappa has executed any document for this. I did not go to work The utsava Devaru temple inside the village was built by all the people of the 4 villages. We all took bamboos and tiles and built it. I forget now many bamboos or tiles I took. Each of us did not take things separately. All the things of our village were taken together. It was the first defendant Patel who sent word to us all that we should come with materials and go and build it. This was

10 or 15 years ago. I do not remember exactly First defendant had sent a chit for this. No. I did not see the chit. Nor do I know with whom he sent word to our village nor with whom he sent word to Soudarahalli or Biladhari. People of Soudarahalli and Baladori also came with bamboos and tiles. I cannot say how many ankanams that temple is, nor how many beams it has. We repaired that temple and came away. Subsequent to that we have brought the utsava deity for one month in our turn in 3 or 4 years. It was Katharaghatta people who got us the utsava deity. The poojari used to come with the goddess and we used to carry it. It was poojari Thammannagowdaia who used to come. In the first year we took the Goddess after the repair. It was poojari Gowdia, who had come. It was he who came with the goddees when we took it for one month in the other two years also. Gowdiah died last year. After this suit was filed, we had summoned him In our turn for collection which was once in 4 years, we used to collect Rs. 10 or Rs. 15 and we used to spend it for the car festival. I do not know by whom or when this utsava deity was made. It was made by the ancestors 17 or 18 years ago Once when Katharaghatta people demand to give us the deity, we complained once. The Deputy Commissioner said that if we established our right in a Civil Court, he would get us the deity. 5 or 6 years ago we and Balidhari people conplained to the Deputy Commissioner that Katharaghatta people refused to give us the deity. Soudarhalli people did not join us. The copy of that order is marked Exhibit I. On this we appealed to the Muzrai Commissioner and he too did not get us the deity. Exhibit II is the copy of the order of the Muzrai Commissioner, I do not know how many persons of the name of Marigowda or Kalegowda there are in Kathaiaghatta now or formerly. There are many persons of these names. I do not know how many literate persons there were in that village. Lakshmegowda was the Patel of Katharaghatta 40 years ago. I do not know if he was literate.

Re-examination :— It is the Sirkar which had given the contract to build to Mooladevaru temple 3 or 4 years ago. The Utsavadevaru temple, inside the village is existing from a long time, Since my age of discretion The Utsavadevaru is also sirkar God. I am illiterate. I do not know that Lakshmegowda was Patel of Katharaghatta. He is dead. I am illiterate.

(Sd) G. Krishnamurti.
Munsiff.

5—8—25.

Deposition of Chennegowda, witness number 2 for plaintiff, taken this 5th day of 8—1925. Age 75 looks 65 years. Father's name—Channarayagowda. Caste—Vakkaliga. Occupation—Girayat. Residence—Herihalli. Taluk—Channarayapatna. District—Hassan.

On solemn affirmation :—Plaintiffs and 1st defendant are devotees of Dyavamma of Katharghatta. The people of Vagrahalli, Beladhari, Katharaghatta, Southerhalli perform the jatra and car festival of this Goddess, for the past 40 years as I know. Before the car festival, i. e., one month before Ugadi Vagarahalli people used to bring this Utsava Goddess from Katharaghatta people and used to take it over villages to collect money for the expenses of the parse and car. The next year Biladhare people used to do the same for one month before car festival. In the third year Soudarahalli people used to do so and in the fourth year it was Katharghatta people's turn. My village is about one mile from Katharaghatta. It is the people of these 4 villages who manage the affairs of this temple. The temple inside Katharaghatta is existing there for the past 40 years. The parse and the car festival is not taking place for the past 20 years. It is the duty of Katharaghatta people to perform and start the car festival. Vagrahalli is one mile from Biladhare and Southerhalli half mile from Katharaghatta.

Cross-examined :—I do not know Kodahalli. Sagathvalli is less than a mile from Katharaghatta and Baragoor Chowdanahalli is about half a mile from the Katharagatta temple. We too used to go to the temple of Katharaghatta and make offerings. I allow the parse I had not gone when Vagrahalli people brought this Utsava Goddess. I am not the maternal uncle of Beladhari Patel. His mother is not my sister. I do not know who my sister is. I do not know if my sister is alive or dead. Biladhari Patel's mother is Kulasthi I do not know about the building of the temple inside Katharaghatta. I cannot say how many ankanams it has. It is a tiled house. It is as big as this Court hall. I had gone to that temple last year. That Utsava Goddess is being worshipped. Bestur people whose name I forget perform its pooja.

Re-examination :—I used to see Vagarahalli people bring the Goddess to our village and make the collection.

(Sd) G. Krishnamurti,
Munsiff.

5—8—25.

Deposition of Nanjegowda. witnesses number 3 for plaintiffs, taken this 5th day of 7—1925.

Age—70 years. Father's name Ramegowda. Caste—G. Vakkaliga. Occupation—Jirayath. Residence—Hirehalli. Taluk—Channarayapatna.

On solemn affirmation :—People of Vagrahalli, Biladhari, Southarhalli and Katharghatta are the devotees of Katharaghatta Goddess. From the lagayat it is the people of these four villages who were performing the parse and car festival of this Goddess. In each year by turns, the villagers of Vagrahalli, Biladhara, Southerahalli and Katharaghatta used to take out the Utsava Goddess over villages for one month before car festival to make collection from villagers for the car festival. That Utsava Goddess was situated in Katharaghatta and the patel of that village used to give the Goddess in turn to the several villages. The parse and Utsava used to take place on 3 days. During those 3 days the Utsava used to perform in Vagrahalli, then in Biladhare and then in Southerhalli and then used to be brought back to Katharaghatta. I am a devotee of Belur Chenna Kesava God. For the past 2 years the parse and the festival of this Goddess is not going on It is Katharaghatta people who had to make the start for the car festival. The right to repair the temple of this Goddess is with the 4 village people and they get repairs effected 7 or 8 years ago the Mooladevaru temple of the Goddess was built. All the people of these 4 villages paid subscription to the sirkar who got the temple built.

Cross-examination.—The Utsava Devaru temple also is being repaired by the people of these 4 villages since 20 years also. Once I saw Vagrahalli people and Biladhare people going to repair the Utsava Devaru temple. I did not meet P.W.1 then. This was 2 years ago. I asked them where they were going. They said they were going to repair the temple. I met them near Baldhare village. It was only Vagrahalli patel whom I met then and it was he who said he was going to take people to effect the repairs. There were no people with him. He was going alone. Plaintiffs' witness 2 Chennegowda's mother is alive and she is the mother of the patel of Beladhari. I was never present when the people of these villages brought out the Goddess from Katharghatta. Many people of many villages come and perform Seva for this Goddess. Last year I did not go to the parse of this Goddess as there was no parse. contribution was not collected from me for the repair of this tank. I cannot say what it would cost to build the Mooladevaru temple or Utsava temple. Plaintiffs' witness 1, Patel Dyavegowda and Nanjegowda used to carry the Goddess when they used to take the Goddess over the villages and the other villages used to follow it There are 4 pujaris for this Goddess and all these 4 had

come with the Goddess. When they brought the Goddess to our village neither I nor any one of our village paid any money to it.

(Sd.) G. Krishnamurthi,
Munsiff.

5-8-25.

Deposition of Sanna Vabegowda, witness number 4 for plaintiff, taken this 5th day of August 1925.

Age—60 years. Father's name—Hobligowda. Caste—Edigar. Occupation—Toddy drawer. Residence—Vagrahalli. Taluk—Channarayapatna

On solemn affirmation :—I know Katharaghatta Dyavamma Goddess. It was the people of Katharighatta, Vajarhalli, Biladhari and Southerhalli who were performing the parse and car festival of this Goddess. The Utsava Goddess is situated in Katharghatta. By turns Vajarahalli people and Biladhari people, Southerhalli people and Katharohatta people used to take the Goddess in procession over villages for one month before car festival. Each village people used to take the Goddess in one year by turns. They used to take Goddess over villages in this manner to make collections to meet the expenses of car festival. They used to bring the Goddess to our village. The temple of the Mooladevaru is situated near the tank in Katharghatta. It is the people of these 4 villages who were effecting the repairs of the Moola temple and of the Utsavadevaru temple. For the past 10 years, the parse and car festival is not taking place. I do not know why each year Katharaghatta people used to send word to the other 3 villages about the car festival. The villagers of these 4 villages are the devotees of this temple.

Cross-examined :—It was 1st defendant who used to send word to the other villages to take the Goddess in procession. He used to get drum beaten in all the 3 villages and proclaim it. It was Katharaghatta holeya who used to proclaim thus. I do not know his name or if he is alive or dead. I saw him proclaim thus in 7 or 8 years. Vajarahalli is 3 miles from Katharaghatta I was paying for my contribution every time the Goddess was brought to my village to the villagers who brought the Goddess. I was paying 4 annas or 5 annas. I used to pay this to the hands of the chief man of the village. I do not know the poojari coming with the Goddess. My family God is Ahobali Narasimhaswami Every year parse is meeting and going on near the Mooladevaru temple in Katharaghatta and many people from many different places come and make offerings to the Goddess. Thousands of persons assemble. Even now it is going on. Last year the parse took place. People make offerings of ಹಣ to the God.

Re-examination :—The car festival has not taken place for the past 10 years. Venkataramanaswamy parse is held every year near the Mooladevaru temple in Katharaghatta. It is the people who assemble and make the parse. There are no mile stones between my village and Katharaghatta.

(Sd) G Krishnamurti,
Munsiff.

5—8—25.

Deposition of Nanjegowda, witness number 5 for plaintiff, taken this 5th day of 5—8—25.

Age—60. Father's name—Maridevegowda. Caste—G. Vokkaliga. Occupation—Jirayat. Residence—Vajarahalli. Taluk—Channarayapatna

On solemn affirmation :—I know Dyavamma deity of Katharaghatta. People of Vajarahalli, Biladhari, Southerhalli and Katharaghatta used to meet for the parse and car festival of this Goddess These people of these 4 villages used to take the Utsava Goddess from Katharaghatta by turns each one year. Katharaghatta people used to give the Goddess to the people of these villages

by turns in successive years. These people used to carry the Goddess over villages to make collections to meet the expenses of the car festival. Each of the 4 villages used to build one car each and make the Goddess seat in it, take the Goddess to their villages, take it round the temple and make it sit. All the people of these 4 villages are the devotees of this Goddess. The temple of the Goddess inside Katharaghatta is existing from lagayat. The car festival has ceased to take place for the past 20 years. It was the people of Katharaghatta who had to perform it. I do not know why they have stopped. The villagers of the village whose turn it was to take the Goddess for collection used to take it over villages for one month.

Cross-examined :—It was the Patel, Shanbhogue and all the people of Katl arghatta who used to give the Goddess to us. I too have carried the Goddess over villages. Plaintiff's witnesses 2 and 3 used to give 2 annas, 3 annas or 4 annas contribution when we went. Kalegowda, Thammannagowda, Maridyavegowda were their poojaries and out of these any two used to come with the Goddess when it was taken over villages. All these are dead. None of the poojaries who are living now used to come Gowdia has come with the Goddess in one year. I did not carry the Goddess in any year. It costs Rs 50 for the expenses of jatra for each of the 4 villages. I have not paid anything for contribution. Our village is one mile from Katharghatta and we used to drag the car from there to our village. About 50 persons used to drag it. The poojaries of that Goddess are all of Katharghatta. There are none in our village. In one year after we were refused the Goddess we went and repaired the Utsava the Goddess temple. Katharghatta people sent us word through the poojari to come and effect the repairs. This was about 2 years after Katharghatta people refused us to give the Goddess. All our village people made contributions and collected Rs. 40. I paid Rs. 2 and for this amount we took tiles and bamboos. I do not know whether the people of other villages brought money or materials or how much they brought. People of the 4 villages too had come to do the repair work. Basavegowda was the carpenter. He is dead.

Re-examination:—Poojari Gowdiah was the son of Poojari Thammanna and both are dead.

(Sd.) G. Krishnamurthi,
Munsiff.

5-8-25.

Deposition of Sannegowda (5th plaintiff) witness number 6 for plaintiffs taken this 25th day of November 192.

Age—70 years. Father's name—Ningegowda. Caste—Vakkaligar Occupation—Jirayat. Residence—Boledare. Taluk—Channarayapatna.

On solemn affirmation :—I am the 5th plaintiff in the case. The people of Vajarahalli, Boladare, Santhdaravalli and Katnaraghatta are the devotees of Ketnarghattamma. The Moolasthana is in Moolakodi, Katharghatta and the Meruvadevar is in a tiled building in the village of Katharghatta. There used to be theru and jatra for this deity. The people of the 4 villages stated above used jointly to perform it. Katharghatta people should proclaim in all the 4 villages that the theru should be performed. This Devamma is the family Goddess for all the people of the 4 villages. The theru of the Goddess is not taking place for the last 20 years. We went and asked the people of Katharghatta. Katharghatta people said they had no leisure and could not perform, and so we too did not perform. The teru used to take place in the month of Chaitra on Thursday, Friday and Saturday. It is to establish our right for the Goddess that this suit is brought. There was a Kattadaka forty years ago. About this right at that time there was dispute about the Goddess between the people of the 4 villages and we had complained to the Amildar who referred it to the Deputy Commissioner, who appointed the Sheikdar Chowdiah to

settle the dispute. Then the people of the 4 villages stated above executed the Kattadaka in favour of the sirkar. Exhibit C read over is the Kattadaka executed. Then a decision was given by the punch ayatdars as per Exhibit D. The panchayatdars were Gramada Lakkegowda, Gowri Chennegowda of Hirehalli Bagoordasa Maistry. Kalamaistri, Yelliyor Suryanarayana Jois, Bagoor Javarappa, Anekere Venkatasubbappa, Annenahalli Kalegowda were the panchayetdars. Cheluvegowda of Chickkethrahalli was also a panchayetdar. There were also others of those punchayetdars only Gowri Chennegowda is alive. The rest are all dead. Sheikdar Chowdappa was present at the panchayati. He too is dead. The Kattadaka and the decision were made in the presence of the people of all the 4 villages Gowri Chennegowda is about 90 years of age and cannot see. His body is bloated and he does not go out far. It is Kattrighatta people who must first start constructing the theru. For the expenses of the teru and jatra each of the 4 village people used to take the Goddess over villages to make collections. Each village would do so in one year before the jatra by turns, The first year Vagarahalli people, 2nd year Boladhara, 3rd year Savudaravalli and the 4th year Kattrighatta people used to take the Goddess for collection. The Goddess used to be taken out by the procession of the people of Kathrighatta and taken over villages for one month. For the theru each of the 4 villages used to build one car and all used to be taken to Kathrighatta. The Goddess, used to be taken in Kathrighatta car first. T ey used to give the Goddess to us. Then it used to be placed in Vagarahalli car and paraded Then it used to be taken in Boladhar car and lastly in Soundarvalli car. In each car the Goddess used to be taken over round the Mooladevastana and be handed over to the next car in the order stated. After the procession round the temple in the 4 cars it used to be placed inside the temple. All this used to take place on Saturday and Thursday evening the Goddess should be taken to Vagarahalli. Kathrighatta people used to give the goddess to Vagarahalli people. The Goddess used to be taken to each house in the village and accept offerings. On the Thursday night by meal time we used to go and bring the Goddess from Vagarahalli to our village and we used to make offerings to the Goddess till Friday morning. Then Savudaravalli people used to take the Goddess from us to their village and making the offerings till noon. They used to deliver it back to Kathrighatta people. This was the mamul practice and it was so decided by the decisions of panchayatdars also. Kathrighatta Marigowda is the father of Puttegowda, first defendant. Kathrighatta Kalegowda is the father of second defendant, Marigowda. Savudarahalli Chikkeregowda is the father of tenth defendant, Puttasamigowda. Badveergowda is the grand-father of this Chikkakeregowda. All these persons have attested the Kattadaka Exhibit C Granthi Lakkegowda was literate. Lakkegowda's statement has been taken before Amildar and about this Jatra and car festival so also Chennegowda has been examined by the Amildar. Both these have been examined with respect to the Kattadaka and decision. Exhibit E is Lakkegowda's statement. After Exhibits C and D the terms were given effect to the car festival was performed by the people of all the 4 villages, for 20 years. The people of the 4 villages should get this temple repaired, once each of the 4 villages have paid Rs. 125 to Sircar for the repair of the temple. Exhibit F is the treasury receipt.

Cross-examined:—The tiled building in which the Meriammadevaru and the Mariyammadevaru in it does not belong to the Sircar. They belong to the people of the 4 villages. The Mooladevastanam outside the village and the Mooladevaru in it also belong to us, because we have built it. It is standing on Government land. The people of the 4 villages built the tiled building for Mariammadevaru. I do not know who built it when our ancestors built it. It was repaired 20 years ago. I too had gone to make the repair. It was on one day I had gone. 7—8, had gone from our village. I do not remember how many had come to work from Vagarahalli, or from Savudarahalli or Kathrighatta. All worked only for one day. I cannot say how many persons in all had assembled. It was Patel Marigowda of, no, it was first defendant who had sent

word to us to come and do the repair. He sent word through the Kulavadi. That Kulavadi is dead. This dispute about our hak to the temple and Goddess and car festival is going on for the past 20 years. We have got the right to perform the Jatra and car festival only if Kathrighatta people send word. I have not presented any jewel to the Goddess I do not know if any others of our village have so presented. Our ancestors may have presented some. I do not know. I do not know if Vagarahalli people or Saudravalli people have presented any jewel to the Goddess. I do not know what jewels there are in the temple or of what value. We used to build the car in our village and take it to Kathrighatta. There is no road from our village to Kathrighatta. On our way from our village to Kathrighatta there is no halla. There are no big hallas on the way from Vagarahalli to Kathrighatta. There are small hallas. The day for the car festival is fixed. The expenses for the Jatra depend upon the capacity of the villages. I cannot say how much we spent for the car festival 20 years ago. The Kattadaka was made near the temple in Kathrighatta. I have not signed the Kattadaka. My elder brother signed it. Formerly there were not many literate persons in Kathrighatta I do not know how many literate persons there were in that village. Then Shanbhog Krishnappa of Kathrighatta was present. It was Chowdappa who assembled all these men. Our elders stated what the Mamul practice was. It may have cost. I cannot say what it may cost to build the Mooladevastana in Kathrighatta. Last year no jatra took place of this deity. There is no zid between us and Saudravalli people. They have not joined as plaintiffs. Saudaravalli Puttaswamigowda defendant 10. I do not know if he tried to take the Goddess in procession or if he applied to the Amildar or if it was decided that Saudravalli people had no right. None of our village people had gone as witnesses on the side of defendant No. 10.

Re-examination :—Vagaranalli people and Saudravalli people also build their cars in their own village and used to bring it to Kathrighatta. It is possible to bring the cars from their village and our village to Kathrighatta. Kalegowda is my elder brother. He is dead. Kalappa of Baludhare who had attested Exhibit C is my brother. My uncle, Marigowda, was the ancestor and it was he who gave the mamul. I am illiterate. I cannot read or write.

(Sd) G. Krishnamurt,
Munsiff.

25—11—25.

Recalled and examined.

On 14—11—26. Solemn affirmation :—I know fourth defendant, Maligowda. About 9 years ago this Maligowda's statement was recorded in Channarayapatna Taluk Office. Vagarahalli people had given a petition for the Goddess to be taken to their village and in that connection 4th defendant and I were examined. Both of us admitted that the Kattalike was true and that the God was being given to Vagaranalli also and it was recorded Exhibit G read over is that statement of fourth defendant who is known as Javaregowdana Maligowda.

Cross-examined :—The Amildar took down the statement. It is Munshi. I do not know who that Munshi is. I had gone there to identify fourth defendant. Fourth defendant is now about 80 years old. Even now he walks about a little. We have not summoned the fourth defendant. This enquiry was on the petition filed by Vagarahalli people to have the God. I know that petition. I do not know if Exhibit III is that petition (read out). This enquiry was made on a petition of Vagarahalli people given 9 years ago. I do not know which petition it is. It must be in the Taluk Office. My statement was recorded. Lakkegowda's and Chennegowda's statement was also recorded then. I do not know if the statement of the Kathrighatta people, viz, Ramaswamiah, Ramanna, Javaregowda, Bora, son of Chennegowda, Marigowda, son of Kalegowda and Chennada, son of Karidyava were recorded. I was not

present on that day. On that enquiry that Amildar ordered the God to be giv but though the Amildar came the God was not given to Vagarahalli people or to us.

Re-examination :—This was because, poojari was not present t Javaregowda is the first defendant.

In open Court,

(Sd.) G. Krishnamurti,
Munsiff.

14—7—26.

Deposition of Javaregowda, (9th plaintiff), witness No. 7 for plainti taken this 25th day of 11—1925.

Age—38 years. Father's name—Chendegowda. Caste—G. Vakk liga. Occupation—Jirayat. Residence—Boladhare. Taluk—Channaray patna.

On solemn affirmation :—I know Devammadevaru of Kathrighatt Vagarahalli, Boladhare, Soudaravalli and Kathrighatta people are th devotees of Goddess. This is their family Goddess. I am also its devotee. The was the car festival for this Goddess. It is not going on for the past 20 year Kathrighatta people should be given information to the other 3 villages tha the car festival would take place. Kathrighatta people too stopped perform ing the car festival and so also we also stopped. We went and asked Kathr ghatta people to perform the car festival. The patel and others of that villag said that they could not perform it. Before 20 years as I know, the car festi val and jatra took place for 10 or 12 years as I know. 4 cars used to b brought one from each village, one month prior to the jatra, the Goddess Ut sava Goddess used to be taken over villages to make collections for the expense of the jatra by turns. The first year Vagarahalli people, the 2nd year Bola dhare people, the 3rd year Soudarvalli people and in the 4th year Kathrighatt people used to take the Goddess over villages The jatra and car used to tak place on three days in the month of Chaitra. After one month the Goddess use to be returned to the Kathrighatta. Then on Thursday, Vagarahalli peopl used to take the Goddess to their village to each house where offerings used t be made. Kathrighatta people used to give the Goddess to them, on Thursda evening. Vagarahalli people used to deliver the Goddess to us. We used to kee it all that night making offerings, etc., and then give it Savudravalli people On Friday morning they used to keep the Goddess in their village till noo and then return it to Kathrighatta people who used to make offerings till tha e vening. Then on Saturday the Goddess used to be given to Vagarahalli ca and the car used to be taken round the Moola Devasthana once and then the Goddess used to be kept in our car. After going round the temple once it use to be placed on Saudaravalli car which use to go round the temple once. Then the Goddess used to be taken in Kathrighatta car and then it used to be kept in the Moola Devasthana It is the people of the 4 villages, that get the temple repaired. Each of the 4 villages contributed Rs. 125, and was deposited in Channarayapatna Taluk Treasury. I was patel and I too collected the money. out of this money the temple was got built by the sircar by contractor Kodigowda.

Cross-examined :—This was for building the Moola devasthana. We made no contributions to build the tiled building for Utsava Devaru. The people of the 4 villages went with bamboos and tiles to repair that Utsava Devaru temple. I did not go, but my elders had gone. This was 20 years ago. There are 60 families in our village, one bamboo and 10 pairs of tiles was given, and each family made the same contribution. All the contribution was collected in a cart. In Vagrahalli also each family gave one bamboo and 10 pair of tiles. There are about 30 families in Vagarahalli and 10 or 15 families in Soudarvalli and 40 families in Kathrighatta. Besides supplying the materials, the older people of our village too had gone for work. Subsequent to this there has been no repair of this Mooladevaru temple. As the temple (tiled) building was then dilapidated it was repaired. Now that tiled building is in

good condition and worship is made every day. That tiled building is about 6 ankanams and there is a beam also for the building. I have never gone to demand the Goddess or for the Utsava. I was young. Our elders had gone and demanded Kathrighatta people for giving the Goddess. This was about the time that the repair about 20 years ago took place. Our elders said that Kathrighatta people had refused to deliver the Goddess to us. There has been no subsequent demand. Our car used to be built in our own village. We were not taking it to Kathrighatta but to the Moola Devastana outside. That is about ¾ of a mile from our village. On the way is the Kodihalla and that halla would be smoothened for the occasion so that the car could pass it. I do not know how much used to be spent for the car festival. I was going when the car festival was taking place There is no misunderstanding between our village people and Soudravalli people. As Kathrighatta people and Soudravalli people colluded to perform the Utsava only as between themselves and so we did not make Saudravalli people plaintiffs. I have never brought the Goddess to my village.

Re-examination :—Our elders, plaintiff's witnesses, Boregowda and others used to bring it. I was a boy then. The way on which we used to bring our car is the foot-path joining Hassan-Channarayapatna road. Only if there was rain we had to repair that path to take the car across the halla.

(Sd.) G. Krishnamurti,
Munsiff.

20—11—25.

Deposition of Ramiah, witness number 8 for plaintiff, taken this 25th day of 11—1925.

Age—40 years. Father's name—Puttiah. Caste—Thamadigowda. Occupation—Archak. Residence—Baladhare Taluk—Channarayapatna.

On solemn affirmation :—I know Devammadevaru of Kathrighatta. This is the family Goddess of Vagarahalli, Boladhare, Saudurvalli and Kathrighatta. Formerly car festival used to take place for this Goddess. It is not taking place for the past about 20 years. To raise money for the expenses of the car festival, the Goddess used to be taken over villages for one month before this jatra. Vagarahalli, Baladhare, Saudaravalli and Kathrighatta people used to take the Goddess by turns each in one year. The jatra used to begin on Thursday and end on Saturday. After Ugadi, the 4 villages stated above used to build one car each. On Thursday the Goddess used to be taken to Vagarahalli to make offerings. Vagarahalli people used to deliver the Goddess to Boladhare people who after Utsava in their village used to deliver to Savudaravalli people and then deliver it to Kathrighatta people. Kathrighatta people after Utsava used to bring the Goddess on a car on Friday evening. On Saturday first the Goddess used to be taken round the Moolastana temple, one in Vagarahalli car people. Then the Goddess used to be taken round the temple in Boladhare car. Savudaravalli car and Kathrighatta car one in order and then place the deity in the Moolastana temple. It was Kathrighatta people who used to proclaim in these 4 villages through the Kulavadi about the Utsava.

Cross-examined :—There is a car in our village. It is a big car and is unused now. It requires hundreds of persons to drag it. Hundreds of persons used to join and drag it from our village to the Bana Mooladevasthana. There is an equally big car in Vagarahalli. One tank is to be passed to go from our village to the temple. Hallas of the depth of knees and some filled with sand are met on the way between Vagarahalli and the temple and the Vagarahalli car has to pass these hallas and a tank also. The car would not sink in the tank. Kodihalli is not met on the way between Boladhare and the temple. I have seen car drawn in the way 4 or 5 times. I am the Archak of Eswara temple. There are no archakas of Devamma of Kathrighatta in Boladhare or Savudaravalli or Vagarahalli. I have never gone to bring this Goddess. The jatra is not going on for this Goddess.

now. People meet and parse meets even now. Several persons from far come for that parse. Thousands of persons meet for the parse, and 700 or 800 carts come. This parse is going on each year. Even now I do not go for that parse nor offer fruits and flowers.

Re-examination.—This parse is of Moodala Giriyappa for Hariseve near the temple. People from below ghats and other places come for the parse This parse is not for Devamma. At the time of car festival there will be no water in the tank being summer and car could be taken across the hallas. There is no halla in the way of our car to go to the temple.

(Sd.) G. Krishnamurthi,

28-11-25

Deposition of Kempegowda, (9th defendant) witness number 1 for defendants, taken this 14th day of 7—1926.

Age—60 years. Father's name—Boregowda. Caste—G. Vakkaliga. Occupation—Jirayat. Residence—Kathrighatta. Taluk—Channarayapatna.

On solemn affirmation :—I am the 9th defendant. I know Kathrighattamma's temple. It is situate in Kathrighatta near the tank kodi. This temple is sirkar temple. People from all round villages and taluks come to worship this Goddess Devammadevaru is in Kathrighatta village. This Goddess belongs to the villages of Kathrighatta and the villages got that idol prepared, and the temple in which it is placed is a stone-roofed house, and was built by Kathrighatta people. Poojaris worship it and each family of Kathrighatta gives the poojari one kolaga of grain for it. This Devamma Goddess was never taken out of our village and Boladhare or Savadduravalli and Vagarahalli people had never taken this Goddess to their villages. Jatra is taking place each year for Kathrighattamma which is outside the village. Last year too its jatra took place. Boladhare, Vagarahalli and Savaudravalli people all attend that jatra. Car does not come near this Kathrigattamma temple. There is car for Devammadevaru which is inside our village On the jatra day we pull the car in parts of our village only. This car cannot be brought near Kathrighattamma temple. People of Vagarahalli and Savadarvalli people and Baladhare people were never bringing car to the temple or preparing car. Cars cannot be brought from Baladhare and Vagarahalli and Saudaravalli near the temple as there is a halla, and ಹಳ್ಳ in the way, poojari's worship Kathrighattamma and for this there is a Sircar jodi, inam lands granted by Sircar. Now first defendant and Javaregowda is the Patel of Kathrighatta for the past 10 to 18 years Before that his elder brother Lakshmegowda was the Patel. Lakshmegowda was literate. Excepting the Shanbhog and Lakshmigowda, there are not literate persons in our village.

Cross-examined :—Devammadevaru inside our village is the utsavamoorti of the Kathrighattamma situated on the Bore There is no other utsavamurti for it I do not know if there is any account in Sircar that this Devamma belongs exclusively to our villagers. Our village people should start the car. Thousands of people assemble for the jatra of Goddess on the Bore not for Devamma. I do not know that. Our village people were enquired before the Amildar in 1918 about this car. There were 3 Kempas in our village. Now I am the only Kempa. The other Kempa died last year. The people of Vagarahalli, Saudaravalli and Boladhare are disputing and agitating that Meriyavadevaru should be given to their villages for the past 30 or 40 years. I have not given a statement that it was usual to bring 4 cars near Kathrighattamma temple in the Bore one by each of the 4 villages. I do not know about the Mahazar read out and marked Exhibit H. I did not give such a statement nor did I sign it. Gundappa lives in our village. I do not sign but I put my thumb mark. Bombay Javara, Patel Javaregowda and others are chiefmen of our village car procession. It did not take place on the Bore near the temple. It has never taken place so far as I know. During all this dispute I was never

summoned by Sirkar nor was my statement recorded at any time 8 or 9 years ago. I was absent from the village for 3 years. I am now 5 or 60 years of age. I have no objection to Boladharai, Vagarahalli and Sananvravalli people bringing car near the Bore and having the car procession. Car festival could be made, even without Meriyuvadevaru in the car As I know our village people have never taken car near the Bore and performed the car procession. We have no right to take the car round the Kathrighattamma temple (ಬನಬಳಸೋಕೆ). Our ancestor got the idol of Devamma prepared. I did not get it done. It was my grand-father or so. I do not personally know I have no record to show it I do not know in which year it was made. It is not the practice to send this Amma over the villages to collect the subscriptions for the expenses of the car festival Our village people meet all the expenses of the car festival. I have not got any list of the expenses. I cannot say how much of expenses we incur. We have no objection to people of other villages coming and offering worship to the Goddess. I am now a member of the temple committee. Since 7 or 8 years Ramiah was a member Bombay Javara, Marigowda, second defendant, Patel, first defendant, Ramaswami, myself are the members now Fourth defendant was formerly a member but now as he could not see and is very old he is not a member. He may be 100 years old. Kalegowda's son Marigowda is 2nd defendant. The sirkar order for appointing members may be with patel and shanbhogue Poojari Dyavanna is the Archak. I do not know his father's name Dyavanda may be now about 50 years old. He is appointed by the Sirkar, not the villagers. The inam land for the temple is in the possession of Archak. One of them died about 2 years ago. I cannot say what may be the yield from that land. We do not take receipt for giving one Kolaga by each family to the Archak. I do not know what is the total grain he thus gets. I do not know if there is land in the Boladhari for Dyammadevaru. Vagarahalli is 2 miles, Savudravalli 1 or 1½ mile, Boladhari ¾ of a mile and Kathrighatta village ½ a mile from the temple or the Bore. The car festival of our village is not performed at any fixed time in the year. We do it whenever we like We do it in Gowri or Yugadi. This year we have not performed the car. Last year we performed it in Yugadi. I cannot say in which month we performed it in other years. One jatra called Srinivasa Devarajatra is held on the Bore each year Thousands of people collect for this, and ಪಾಪ್ಪ,are kept for collections of offerings There is no thakrar between our village and the other three villages about this collection

Re-examination :—We do not permit Devammadevaru Goddess outside our village. This will be harmful to the village.

(Sd) G. Krishnamurti,
Munsiff.

14—7—26.

Deposition of Srikantiah, witness number 2 for defendant, taken this 14th day of 7—1926.

Age—59 years. Father's name—Subbanna. Caste—Smartha Brahmin—Occupation—Landholder. Residence—Katharghatta,; Taluk—Channarayapatna

On solemn affirmation —Kathrighatta temple is situated near tank kodi in our village That temple is Sirkar land. It is a very ancient temple. I cannot estimate what it may have cost to build it. Dyavammadevaru Goddess is inside Kathrigatta village That idol was got made by Kathrighatta villagers. It is located in a stone-roofed building and that building was got built by Kathrighatta people. Sirkar has no right over this Dyavammadevaru. Bestar people worship the Devamma and for this Kathrighatta people give one kolaga of grain per family. Its worship is going on every day. There is a car for this Devamma and its jatra is going on each year. It was omitted in no year. The jatra takes place in Chaitra and Vishaka or Bhadrapada At the time of jatra the car of this Devamma will be pulled in

front of the village. This car will not go near the Amma temple near the Kodi. It could not be taken as there is obstruction. People from several places and Taluks like Hassan and Arakalgud do assemble for jatra. 4 to 6 thousand people assemble. Vagarahalli, Baladhari and Savudravalli people also attend the jatra. These do not bring any car from their village Dyammadevaru will not be taken outside the village at any time. This idol was got made about 50 years ago. 1st defendant is the Patel of our village Now before him Lakshmegowda was the Patel for 30 to 40 years and he was literate He died 10 or 12 years ago, and after he died 1st defendant became Patel. There are 10 or 12 literate persons in Kathrighatta. Bolidhare, Vagarahalli and Savudravalli people have never taken Devammadevaru to their village any time.

Cross-examined :—These have never taken the Goddess at all. If it could be taken out it is to be permitted by all the villagers. I do not know about the Katharighattamma temple being repaired recently. There was no Government order that Katharaghatta people, Vagarahulli, Savaduravalli and Boladahere people should raise contributions and pay for repairing this ancient temple. I have not reported that Katharighatta people have collected the amount and the other three village people have not paid. I see the petition, Exhibit J. It is in my writing, and I have signed it. Yes, I may have written the petition, Exhibit J. I cannot see well now. I cannot say. I do not remember in which year the idol Devammadevaru was prepared. One person, whom we were calling Kivda of Annenahalli prepared it. All the Gowdas, villagers of Kathrighatta, took part in it, Kallegowda and Marigowda and others. No petitions were given to the sirkar for permission to get this idol prepared. It may have cost hundreds to get it prepared. I do not remember the amount or how much each contributed. I am not a devotee for this Goddess. I have not attended its worship nor the worship of Kathrighattamma on the Bore. No car procession has taken place near that temple at any time. I know there is dispute between Kathrighattta people and the other three villages. Baldhari, Vagarahalli and Savudarahalli people came and asked that Devamma might be allowed to be taken to their village for offering harike, etc, but our village people refused it as there was no mamool. This was about 25 years ago. They did not say they wanted to perform car festival or to take it over villages. Our village people have never applied for licence to perform car festival near our village. Our village people have never obstructed these people of three villages from performing car procession near the temple on the Bore. I have never given any statement about this dispute. 8 or 9 years ago the Kathrighatta temple was got repaired by Government through contractors. I do not know that all the 4 village people made collections and gave it to Government for this. I too have paid Rs. 2 or Rs. 3 for this to the hands of Patel. The amount of Rs. 991 referred to in Exhibit J is not got back. I was young and I do not know how much was spent to build the Devamma temple in the village nor do I know it before this temple was built or where it was kept. I too pay one kolaga grain to the poojari. He gets in all about 2 khandies of grains. The poojari is Dyanna His father was Dyanna alias Appiah and he died about 8 or 10 years ago. Appiah had a younger brother Kala It is the village people who appointed this poojari. I do not know which villagers. I do not know if there is barraward for the poojari in sirkar There is no Inam land for Dyavamma in Baladhare There is inam land in the name of Kathrighattadamma in that village. Devamma is the only Utsavamurthi for Kathrighattadamma. Marigowda is the father of 1st defendant. I do not know if Marigowda was there patel. Lakshmegowda has left sons. As all these were members of the joint family and 1st defendant was literate he was made patel. Marigowda died 30 or 40 years ago and Kalegowda about 20 years ago. There is one Subbraya in our village.

Re-examination :—The temple referred to in Exhibit J is the sirkar Kathrighattamma temple. It was repaired at a cost of about Rs. 3 0.

(Sd) G Krishnamurti,
Munsiff

14—6—26.

Deposition of Dyavanna, witness No. 3 for defendants, taken this 14th day of July 1926.

Age—60 years. Father's name—Dyavanna. Caste—Bestar. Occupation—Poojari and Girayat. Residence—Kathrighatta. Taluk—Channarayapatna.

On solemn affirmation :—Kathrighattamma temple is near the tank Kodi in our village. I am its archak. That is sirkar temple and the sirkar has left an inam land for that temple. Dyava mmadevaru is inside the village of Kathrigatta. This idol of Devamma was got made by Kathrighatta village people and the Govern nent has no right in it. I worship this Dyava n na also and for this each family in Kathrighatta gives me one kolaga of grain. Neither Balidhare people nor Savadaravalli people nor Vagarahalli people give me anything for this worship. There is a car for Deva n nadevaru and its jatra is taking place each year. Its car is drawn not in the jatra but in front of our village. This car does not go near Kathrighatta n na temple on the Bore. It could not be taken there. For the jatra of Kathrigatta n na people fro n outside also come. About 4,000 people assemble annually Dyava mmadevaru was never taken outside our village at any time. Vagarahalli, Baildhare and Savadravalli people have never taken Devamma to their villages. I am worshipping Devamma for the past 30 years

Cross-examination :—The Utsavadevaru for Kathrighattamma is Devamma which is inside the village. The Utsavadevaru is never taken near Kathrighattamma temple or taken round the temple or taken in car. Jatra takes place for Kathrighattamma also each year even now. It is not stopped. There is no car procession. Though people come, assemble, make offerings and and go we are archakas for this temple from the time of my father. My father was known as Buddyavaramane Poojari Dyavanna. He was not known as Veera Bhadrana Dyavanna. From the Inam land of Kathrighatta n na temple I get one candy of grain. The villagers have not executed any docu nent for giving one kolaga of grain each. I have no patti for collections. Boladhari Vagarahalli and Savuduvanahalli people do not come to the village for car procession. They attend the jatra on the Bore. The car procession inside the village takes place on the same day as the jatra on the Bore. This takes place at the Yugadi or Gowri time. Sreenivasathevara harike also takes place on the Bore and Golaka is kept to make contributions. I do not know if there was dispute about this collection between Kathrighatta and other three villages. 1st and 5th defendants are the patel and Shanbhogue of Kathrighatta. I was sent for by the sirkar people in connection with the dispute between the 4 villages. My statement was not taken. I do not know if the statement of others was taken. I do not know if there is Inam land in Baladhari in Khata of Kathrighattamma and I am not getting its produce. This dispute between Kathrighatta and other three villages about car is going on for the past 30 years.

Re-examination :—Nil,

(Sd.) G. Kishnamurthi,
Munsiff.

14-7-26.

Deposition of Venkataramanagowda, witness No 4 for defendant, taken this 14th day of July 1926.

Age—40 years. Father's name—Yalakkegowda. Caste - Vakkaligar Occupation—Girayat. Residence—Baragoor. Taluk—Channarayapatna.

On solemn affirmation : —I have seen Kathrighattammana temple. It is situated in that village near the tank kodi. My village is about a mile from that temple. Sagathavath is about mile from that temple, Chowdanahalli is half a mile, Kodahalli 2 miles, Hegeehalli ½ a mile from that temple. Kathrighattamma is my family Goddess. I have seen Dyammadevaru This is kept

inside Kathrighatta village. There is a car for that Goddess The jatra of Kathrighattamma takes place. The car procession of Dyamma does not come to where the jatra takes place near Kathrighattamma temple but is drawn only in front of the temple village We have never taken Dyavammade varu, was never taken to our village. People of no other village have taken this Goddess to their villages at any time. Kathrighattamma temple was repaired some time back. In my village also some people made contributions for that. I paid Rs 4

Cross-examination :—I do not know who else made contributions nor do I know how much money was collected for the repair. I paid the Rs. 4 to the chief man of Kathrighatta. I did not take any receipt for this. I did not enquire how much was spent for the repair of the temple. There is a big temple of Bagooramma in my village. I am a devotee for this also. I am a devotee for Banarasi and other places also. Parse takes place each year for Kathrighattamma on the Bore, Baladhara, Vagarahalli and Savaduravalli people also attend that jatra and make offerings. Car procession was never taking place near Kathrighattamma temple on the Bore nor were the cars taken round the temple. This jatra takes place either at Gouri time or at Ugadi time. I cannot give the months The car procession near the village is on the same day as its jatra near Kathrighattamma temple. I have not seen Boladhare. Vagarahalli and Savadaravalli people come near the car I do not know which is the diety for these three villages The repair of Kathrighattamma temple may have taken place by Government. I do not know if Kathrighatta people have any right in Kathrighattammana temple. Dyamma is Utsava temple for Kathrighattamma. Dyamma is the private Goddess of that village people. I have heard the villagers say so. Kathrighattamma temple is sirkar temple People say so. I do not know if there is Inam land for Kathrighattamma in Boladhari I do not know what dispute there is before sirkar between K. Ghatta and the three other villages about the Goddess. I was never sent for nor was I enquired. Vagarahalli, Baladhare and Sowdavalli may be about half a mile from Kathrighattamma temple I have not seen Sreenivasadevara parse on that Bore I go to tKathrighatta at least 10 times a year I have no dakala kept to say whether he Goddess Dyamma was taken out or not nor have I enquired

Re-examination :—Nil.

(Sd.) G. Krishnamurti,
Munsiff.

14—7—25.

Deposition of Puttegowda alias Chendegowda, witnesses number 5 for defendant, taken this 14th day of 7—1926.

Age—42 years. Father's name Subbegowda. Caste—Vakkaliga. Occupation—Jirayath. Residence—Kathrighatta. Taluk—Channarayapatna.

On solemn affirmation .—Kathrighattamma temple is a Government temple. Dyammadevaru is located inside Kathrighatta village and that idol belongs to K. Ghatta people. Poojari Dyanna is the archak for Dyamma and also for Kathrighattamma. We the villagers give 10 seers of ragi for each family to this Devanna for his worshipping Devamma. For his worshipping Kathrighattamma he has got sirkar jodi land. There is a car for Devammadevaru and its jatra takes place each year. The car of Devamma is dragged only in the village and it is not taken near Kathrighattamma temple. Nor is it possible to take the car there This Devammadevaru is never taken outside Kathrighatta nor is it given to any other village people at any time to be taken to their village.

Cross-examined .—I am the 3rd defendant in this case and I have filed a statement in the case. 1st defendant is the patel of our village for the past 20 or 30 years The jatra takes place near Kathrighattamma temple on the Bore for a day and half. It begins on Friday evening and going on till Saturday

evening. Devotees come and assemble and make offerings in the temple. Chomas will not dance there. There are three chomas (masks) in Devamma temple. The poojaris put these on and dance at the jatra. This choma are not taken near the temple on the Bore. There are no obstructions to do so to take chomas (masks there But these chomas dance only near the village. There is no cart tracks to that temple. The path is over the bund. The jatra takes place either in summer or in rainy season in Gouri time. Our village people start the jatra. We do not beat drum in other villages when the jatra takes place. Drums are not beaten nor pipe played near Kathrigattamma's temple. All these take place near the car procession. Four to five thousands of people assemble for the jatra on the Bore. These people come and see the car and go. About 500 people will be gathered near the car. I have no dakahala to show that Dyamma belongs to our village We are not taking license for committing car procession. The dispute about this deity between our village people and Vagahalli, Boladhare, Savudaravalli people is going on for the past 25 years I was sent for by the taluk authorities but my statement has not been recorded. I was not present when the patel's statement was taken. Kathrighattamma temple was repaired I do not know who all gave contributions for this repair. I have not got a petition given that contributions should be given by our village, Vagarahalli, Baladare and Savadaravalli people. I have not signed Exhibit J. I sign my name. I can read and write. I learnt it in my young age.

Re-examination :—Nil.

(Sd.) G. Krishnamurthi,
Munsiff.

14-7-26

Deposition of Javaregowda, (1st defendant), witness number 6 for defendants, taken this 14th day of 7—1926.

Age—60 years. Father's name—Marigowda. Caste—Vakkaliga. Occupation—Jirayat Taluk—Channarayapatna.

On solemn affirmation :—I am the 1st defendant Kathrighattamma temple is situated in our village near the tank kodi. That temple belongs to K. Ghatta people. That temple was built by Sirkar D. W. Dyanna is the archak of that temple and for this he enjoys sirkar jodi land. Devammadeveru is located inside K. Ghatta village. That idol was got made by K. Ghatta people, 40 or 50 years ago. There is a car for Devammadeveru and its jatra takes place each year and in the jatra the car of Devamma is drawn. It is drawn only inside the village. It is never taken to Kathrighattamma temple on the Bore. There is the tank halla intervening. Vagarahalli, Baladhare and Savuduravalli people were never bringing cars near Kathrigattamma temple or drawn it there. The idol of Dyamma was not removed out of our village at any time by us or by Vagarahalli and Baladhare and Savaduravalli people. These have never taken the Goddess to their villages. These people have no right in the Devamma nor Sirkar. Sirkar people inspect the jewels of the Goddess.

Cross-examination :—My father Marigowda, was the patel of K. Ghatta till his death. Then my cousin brother, Lakshmegowda was looking after the patell. I became patel after him. This dispute between our village people and the people of Boladhare, Vagarahalli and Savudaravalli is going on about this Goddess from 10 or 16 years. These are contending that they should be permitted to take the Goddess to their respective villages for ಹಬ್ಬ and also over other villages to collect money. Once there was an enquiry of me and other people before the Taluk Amildar of Channarayapatna. Then Vagarahalli people had applied for the Goddess being taken. [illegible] other elderly men of my village were enquired, I stated that they have no right to take the Goddess and it could not be given I hear Exhibit H read out. I have signed it. I may have given the statement

ike this, as read out. The signature marked H(1) is mine. and H(2) is the signature of 5th defendant. I do not know if there was car procession near Kathrighattamma temple formerly. Since my age of discretion there have been no such car processions at all on the Bore. Devamma which is in our village is the Utsavamurti of Kathrighattamma. We got this idol made for taking in procession inside our village for (ಶಂಕ) shown. There is a list of the jewels of this Devamma kept in the Taluk Office. I and Shanbhog have signed and given it. I do not know since when this patti is kept there. The Amildar and Sheikdar and others, when they come, inspect both the Devamma temple inside the village and Kathrighattamma on the Bore and also the jewels. I have not stated before the Amildar that Dyavamma belongs to the villagers as I was not asked about it. There are three chomas in the Dyavamma temple. Chomas are not danced at any time. We do not touch them at all. The parse takes place in Bhadrapada or Chaitra. This year it has not yet taken place. The Jatra takes place only on one day, i.e., on Saturday. It begins on Friday evening. We have not been making thakarar that the expenses of repair of the temple should be made by all the 4 villages. I have attested Exhibit K, the muchalika. I have attested the petition (1) Exhibit J. J, is my signature. There is an old man Maligowda, in, our village. He may be about 90 years of age now. I do not know if he has been enquired into by the Sircar about this matter. 10 or 12 years ago Vagarahalli people had given an application that the Goddess should be given to their possession. We did not say this or give a statement that as the poojari was absent. I see Exhibit L. I have attested Exhibit L. 5th defendant Ramaswamiah has attested it. L(1) is my signature and L(2) that of the 5th defendant. The Police Jamedar took the statement. Poojari Marideva died 6 or 7 years ago. He too was worshipping this Goddess. He was the cousin of D. W. Dyavanna The same day as I gave the statement, Exhibit L Maridevagowda, second defendant too gave the statement like that read out and marked Exhibit M. I must have told my Lawyer at the time of writing my statement that the Jatra takes place in Bhadrapada also. I did not know if he wrote it in the statement.

Re-examination.—Exhibits L and M were written by the Police Jamedar. Generally the Jatra is made in Chaitra but sometimes we do it in Bhadrapada. This year as we had shifted to shed the Jatra was not held in Chaitra. We will do it in Bhadrapada.

(Sd.) G. Krishnamurti
Munsiff.

14—7—26

EXHIBIT B.

R. Dis. 3 of 1922—23.

Dated 11—7—1922.

From The Deputy Commissioner's Office,
Hassan District.

Endorsement to the villagers of Vagarahalli, Channarayapatna Taluk

In the matter of causing the Kathrighattadamma, in Kathrighatta village, Channarayapatna Taluk, to be given to your village, for each a single day for the purpose of car festival, as per deed of agreement executed before:—

Perused the records It is evident from your statements, that the practice of giving the said Goddess to your village, for the purpose of car festival has ceased from the past 16 years Therefore no order can be passed in the matter of giving the said Goddess. If you like, you may get this matter settled in a Civil Court. Afterwards you may apply for a relief

Sd.) P Suryanarayana Setti,
For Deputy Commissioner,
Hassan District.

To Mr. N S. Nanjundaiya, Inld.) K. S
Pleader for Vagarahalli villagers

EXHIBIT E.

Statement of Lakkegowda, aged about 67 years, son of Lakka Naika, Gangadikar Vakkaligara Makkalu Caste, residing at Grama, Hassan Taluk, dated 30th March 1914, in the presence of the Amildar, Channarayapatna Taluk, is as follows :—

In connection with the performance of the car festival and jatra of the Goddess Kathrighattadamma, there arose a dissension among the four villagers, namely, those of Kathrighatta, Baladare, Vagarahalli and Samudravalli. Previously, in the year 1883, the abovesaid villagers and myself joined and held a panchayet and said that we must be on amicable terms and a Kattadaka (deed of agreement) was executed. To it, myself, the abovesaid villagers, and the villagers of Terehalli (original not clear) have all affixed our signatures. According to this, the service to procession Goddess was done for some years. Recently, i.e., from the past 10 or 12 years, there arose a dispute among these villagers in the matter of remitting the Kanike amount, collected from those who made a pilgrimage to Tirupathi, to the Government. From that time, the service to this Goddess has stopped. The statement given by the Hirehalli Gowri Chennegowda is true My statement is just according to his statement.

Read over and admitted to be correct.

(Sd.) Lakkegowda.

EXHIBIT H.

IN THE TALUK OFFICE AT CHANNARAYAPATNA

Mahazar Dated 5—2—1918, caused to be drawn up by the undersigned villagers of Katharaghatta, Dandignahalli hobli.

We have heard the orders issued dated 5—2—1918 by the Sub-Division Officer, as per final orders of the District Officer passed on the complaint petition submitted by the villagers of Vagarahalli, praying that the Goddess Kathrigi attadamma in Kathrighatta village, may be caused to be handed over to them for the sake of conducting a car festival, in accordance with the Kattadaka of the year 1883, read over to us. Previously car festivals were being celebrated for this Goddess. 20 or 30 years might have passed since this ceased. As we were not able to celebrate this car festival, we stopped it. There are no other reasons except this. On the day of the car festival of the Goddess, the villagers of Samudravalli, Baladere, Vagarahalli and our place used to come with the car prepared and at the time of the Pradakshina (going round) of the garden the car procession used to be conducted. Recently this too stopped. We did not build the car and they too did not do it. We heard the Kattadaka made on 16th April 1883, read over to us. Now alone we came to know about this Kattadaka and prior to this, we were not aware of it. We do not know whether this Goddess used to be given for these 4 villages. Only in the year 1882, the villagers of Samudravalli filed a petition praying that the Goddess must be caused to be given to them for the purpose of a Jatra. According to the Huzzur order on the petition the Goddess was given to them only for that one year. Marigowda, Patel of Katharighatta gave the said deity for worship to the villagers of Baladare, without any order and contrary to the existing practice, in the same year, and as the deity was not given to the Samudravalli people in time and thus disobedience was committed, this Patel was punished with fine. Recently, i.e., on 27th October 1913, villagers of Samudravalli, preferred an appeal praying that this Goddess Katharaghattadamma may be caused to be given to them, for the purpose of celebrating a car festival. Thereupon it was decided in Case No. 35 of 1912-13, that this appeal was barred by limitation. These two references are with Puttasamegowda, Patel of Samudravalli. They may be kindly perused. Except this, we are not aware, since the time of our attaining the age of discreiton

of a Kattadaka being made or the deity being given. To this Kattadaka there are two signatures, as Katharighattada Marigowda and Kalegowda. These were illiterate persons. They are not living now. They have breathed their last. 30 years have passed since Marigowda died. About 20—2 years have passed since Kalegowda died. An order was issued by the Amildar, Mr. Sundararaja Iyengar, directing that this Goddess must be given to the villagers of Vagarahalli for conducting car festival. Then the Deputy Commissioner was intimated about this through a telegram upon which an order was issued directing that the Goddess must not be given, and that breaking open of the lock and the giving of the Goddess should be stopped. This reference is in this record and also with us

L. T. mark of Bombai Javaregowda.
L T. mark of Kempa.
L. T. mark of Chanda All these marks attested by (Sd.) Gundappa.

(Sd) Gundappa (Sd.) Dyavegowda.
(Sd.) Marigowda.

EXHIBIT H(1.) (Sd.) Javaregowda, Patel. (Original not clear.)

EXHIBIT H(2.) (Sd.) Ramaswamiah, Shanbhog

EXHIBITS J. & J(1).

To the Taluk Officer Channarayapatna.

Petition dated 10th January 1903, submitted by the villagers of Khathrighatta, Dandignahalli Hobli, is as follows .—

For the repairs of the temple of the Goddess of this village there was a settlement among the four villagers, viz., that of Khathrighatta, Samudravalli, Baladare and Vagarahalli, who belonged to this temple, to raise a subscription. We awaited till now after keeping the amount of Rs. 99, collected in this village, in the Savings Bank. In the same manner the other villagers did not collect the amount and make the necessary arrangements for the repairs. Therefore, the amount of Rs 99, which is kept in the Savings Bank pertaining to this village, might be caused to be returned. We shall be bound by the arrangements that the people may make at a future time. To this effect, is this petition submitted with this prayer.

(Sd.) Thimmappiah,
x Mark of Channa,
x Mark of Thimma,
x Mark of Javara,
x Mark of Chanda,
x Mark of Narasiga,

Exhibit J(1)
(Inld.) G. K,
Munsiff.
14-1-26.

(Sd.) Sree Srikantiah,
(Sd.) Patel Javaregowda.
(Sd.) Subbegowda,
x Mark of Kala,
x Mark of Kempa,
x Mark of Dyanna,
x Mark of Ningegowda,
x Eark of Homba,
x Mark of Putta.

EXHIBIT L, L(1) and L2.

To

The Gov ernment,

Statement caused to be written by the undersigned members of the temple, at Kathrighatta Grama, Dandignahalli hobli :—

In order to give the Goddess of this village, Dyavamma deity to the villagers of Vagarahalli, the priest of the temple, Maridyava, was not found, though he was searched till now, for the purposes of taking the Goddess from its seat and to accompany it. The villagers of Vagarahalli say that he is the person who goes to their village. We do not know, where this priest of the temple has gone. Therefore it is not possible to take the God. To this effect is this submitted.

Dated 11—6—1914.

(Sd.) Lachumegowda.
x Mark of Kempa.
x Mark of Boregowda.
x Mark of— ———(original not clear) attested to by Cheluva.

Exhibit L(1.) (Sd.) Javarigowda, Patel.
(Inld.) G. K.,
Munsiff.
Date 14—7—26.

(Sd.) Marigowda.

Exhibit L(2.) (Sd.) Ramaswamiah.
(Inld.) G. K.,
Munsiff.
Date 14—7—26.

(Sd.) B. Krishnappa,
Jamedar.

EXHIBIT III, d. 5-6-1912.

To the Court of the Magistrate, Channarayapatna Taluk.

Application for license dated 5th April ~~1913~~ 1912, (original torn) submitted by the villagers of Vagarahalli, Dandignahalli hobli, viz., Patel Dyavegowda, Dyavegowda, son of Hanumanthegowda, Sivegowda, son of Kalegowda, Nanjegowda, son of Maridyavegowda, Dyavegowda, son of Nanjegowda, Hanumegowda, Chikkegowda, Dyavegowda, son of Marigowda, Dyavegowda, son of Chikkegowda and other villagers, is as follows :—

We, the people of the four villages, viz., Vagarahalli, Baladare, Samudravalli and Kathrighatta were performing the service of the family deity of our village, Devamma, set up in Kathrighattada village, Dandignahalli hobli, from a very long time. At the time of the car festival of this Goddess, each of the people of each village were taking the procession idol to our respective villages each one year and were performing the service of the Goddess. The Patel, Shanbhog and others of Kathrighatta were giving that Goddess to the other three villages by turns and according to mamool about 8 or 9 years back, we went at the prescribed time and asked the Patel, Shanbhog, and the priest of the temple and other villagers, to give us the Goddess. To that they replied " We are not going to give you the Goddess. We are not going to come with you, for performing the jatra." Therefore, we, i. e., the two villagers of Baladare and Vagarahalli, joined together and gave a petition. Afterwards, your honour sent for all the four villagers and said to the villagers of Kathrighatta to continue to act as before. To that, they replied, " We are not going to give the Goddess to the other three villagers. If you grant us license for our one village, we shall perform the festival." To that your honour said " We are not going to grant (the license) for your one village. If you are going to conduct the procession, with the remaining three villagers, we are going to give you the license." For that we said " We must act as we were acting hitherto." To that your honour said " Until you people of the four villages come to us, with mutual understanding, we are not going to give the license for each of the 6v

villages. You must not bring the Goddess out of the temple." To this effect they obtained a Muchchalike from the people of the four villages. Thereafter the village of Katharighatta, in this year, brought out the Goddess and performed the procession. As there was prevalence of plague in our neighbouring villages, we, the villagers of Vagarahalli, feared and prayed to the Goddess Devamma, which is our family Goddess, and which is at Katharighatta. It is thus: "You must prevent plague from coming into our village and thus save us. If you save us like that, we shall bring the Goddess, perform the procession and thus offer our prayers." To this effect we prayed. By prayer to that holy Goddess, all our troubles were removed. Therefore we asked the Patel, the Shanbhog and the villagers of Katharighatta to give us the deity for one day and said that after fulfilling our vow, we shall bring the deity and place it in the mud-roofed temple. To this they replied. "We have no authority to give you the Goddess We too have obtained the license and have performed the procession. If you want, you too may obtain a license and perform the procession." Therefore, we pray your honour, to kindly grant us the license, for one day at least.

(Sd.) Patel Dyavegowda.
(Sd) Dyavegowda, son of Hanumanthegowda.
(Sd.) Sivegowda, son of Kalegowda.
(Sd.) Nanjegowda, son of Maridyavegowda.
(Sd.) Dyavegowda, son of Nanjegowda.
(Sd.) Hanumegowda.
(Sd.) Chikkegowda.
(Sd.) Dyavegowda, son of Marigowda.
(Sd.) Dyavegowda, son of Chikkegowda.

To R. No. 131.

Order to the Shekdar of Dandignahalli.

Submit a detailed report, with records, as to whether a license can be granted to the petitioners, after local enquiry.

~~5-4-1917~~ ×
Dated ~~6-4-1917~~. ✓
16-4-1917)

(Sd.) Not clear.

It was understood that Counsel
not a meeting of the parties & make
at compromise & then adjd. the
case to such other & date as desired. Respdt's
has not done the same with respect to his adv
it is for the Court should so. if the Counsel is

IN THE CHIEF COURT OF MYSORE.

Second Appeal No. 119 of 1927—28.

HOLE-NARASIPURA

1. Dyavegowda and 8 others

(Appellants—Plaintiffs 1 to 5 & 7 to 10)

By Mr. C. Lakshmana Gowda

Vs.

1. Mari Gowda, 2. Putte Gowda
3 Malig Gowda, 4. Ramiswamaiya,
5 Javaranna, 6. Kempe Gowda

(Respondents—Defendants 2 to 6 & 9)

By Mr. Kumara the respe

Presented —4 —2 —1928

In the Court of the Munsiff of Hole-Narasipur O S. No 11 of 23-24	Plaint filed 9-7-1923 Decree passed 30-8-1926
In the Court of the A S Judge of Mysore R A No 126 of 26—27	Appeal filed 3-11-26 Decree passed 31-10 27

In the Chief Court—Appeal filed—6—2—1928

Nature of claim—Suit for declaration of plaintiff s right to take the Diety in procession

To be heard on 22/1/..1929
24/1/29
18/2/29

Caxton Press, Bangalore City—1929

18/7/29 4 3 29
5/3/29
14/3/29
22/3/29.
~~Three months time~~ for Compromise 21/3/29
x 8-8-29 3/6/29
9-8-29 6/6/29
29-8-29 21/6/29
gdt 6-2-30 25/6/29
Bd. with costs.

TWO ANNAS

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MYSORE

(1-17) 18

In the Chief Court of Mysore

at Bangalore

Thursday the 6th day of February 1930.

Present

Hon'ble Justice D. K Rama Rao.

and

Hon'ble Justice G. Sreenivasa Iyer.

Second Appeal No 119 of 1927-1928.

1. Dyave Gowda
2. Sivanaije Gowda
3. Dyave Gowda
4. Nanje Gowda — Plaintiffs
5. Sanne Gowda — 1 to 4, 5, 7
6. Bare Gowda — and 8 to 10
7. Kale Gowda
8. Patel Iwara Gowda
9. Bore Gowda.

~~11~~

Hari Gowda

2 Putte Gowda

29.3.30

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MYSORE

3. Maligegowda 4. Shambhogue Ramaswamaiah 5. Bombayi Jawaramma, 6. Kempay Gowda	Defendants 2 to 6 and 9.

Respondents

Second Appeal against the decree of the Additional Subordinate Judge of Mysore in Regular Appeal No. 126 of 1926-1927 confirming that of the Munsiff of Hole Narasipur ... Original Suit No. 11 of 1923-1924.

This second appeal coming on for hearing on Thursday the 29th day of August 1929 the court delivered the following:-

Judgment

The defendants who were the plaintiffs in the trial court recorded a

29.3.30

[illegible]

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Vagarahalli and Baladaregrama in Channarayapatna Taluk, and the respondents are the residents of Kathara ghatta and Savadarahalli in the same Taluk. There is a temple at the northern weir of the tank in Kathara ghatta Village, and the utsava Vigraha is kept in a house inside the Village, and a car procession of the Goddess takes place once a year, in the month of Chaitra. The plaintiffs' case is that all the villagers have the right to participate in the conduct of the car procession that the Villagers of the four Villages have the right to take the utsava Vigraha in procession to their

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Villages one month prior to the car procession once in 4 years by turns. The Kathasaghatta people deny that any other Village has got the right set up by the plaintiffs and their case is that the right to take the Vigraha in procession is vested in them entirely, they also pleaded that the suit was barred by limitation.

The temple is admittedly a Mauzrai institution. The plaintiffs had petitioned the Mauzrai officer to give effect to their customary rights in 1912 on 11-7-1922 the Deputy Commissioner passed an order that as the practice of going the Vigraha had ceased for 6 years he could

29.3.30

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not give an order in their favour and that the matter might be settled in a civil Court. The plaintiffs thereupon filed the present suit on 9-7-1923.

The Munsiff held that though the plaintiffs had the right claimed by them, their suit was barred by limitation, and that the suit was not maintainable under Section 38 of the Dharmada Regulation. The lower appellate court affirmed those findings and further held that the suit was not of a civil nature.

The first question for consideration in this Second Appeal is whether the suit is barred by limitation. The learned Counsel for the appellants

29.3.30

Continued

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contended that under the provisions of Section 14 of the Limitation Regulation the time taken by the plaintiffs in prosecuting in good faith the same matter before the Amzrai officer should be excluded and that if that period be excluded the suit was in time. The plaintiffs have admitted in Exhibit III that their right was denied by the defendants so far back as 1902 or 1903. The defendants have examined some witnesses to show that the Villagers of Vagarahalli, Baladare and Savadarehalli have never taken the Vigraha from the Kathara ghatta Village. There is no documentary evidence to show that the Villagers

DR
29.3.30

of those Villages had taken the Vigraha to their Villages from 1883 till 1902. On the admission of the plaintiffs, the suit would be in time only if the period from 1-4-1912 when they presented a petition to the Amildar as Mazrai officer till the date of the final order viz., 15-2-1923 be excluded under Section 14 of the Limitation Regulation.

Section 14(1) of the Limitation Regulation runs thus:- "In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another civil proceeding whether in a court of first instance

29.3.38

or in a court of appeal, against the defendant, shall be excluded where the proceeding is founded upon the same cause of action and is prosecuted in good faith in a court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it."

The parties in the case befor the Mamlatdar officer were the same as in the present case. The matter in dispute in the two cases are identical; but Section 14 requires that the previous proceeding should have been a civil proceeding and must have been ~~presented~~ prosecuted in a Court and that the court should

28/ 19.3.30

have been unable to entertain it - from defect of jurisdiction or other cause of a like nature The words "Civil proceeding" are probably used as distinguished from 'Criminal proceedings' the word 'Court' is not defined in the Limitation Regulation or in the General Clauses Regulation but having regard to the expressions - civil proceedings whether in a - Court of First Instance or in a Court of appeal, the Court must be a civil or Revenue Court and cannot include Executive officers In 26 All. 382, it was held that a proceeding for mutation of names before an executive officer was not a civil proceeding before a

19.3.90

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court. In 43 Bom. 201, Heaton J. observed that where a collector acted purely as an administrative officer, he could not be described as 'a court' in the sense in which the word is used in Section 14 of the Limitation Act, and that Section 14 refers primarily to suits and proceedings such as are dealt with in the schedule to the Limitation Act itself and not to proceedings which are entirely outside the provisions and the intention of the Limitation Act generally. Hayward J. observed in the same case that in order to decide whether a proceeding may properly be termed a civil proceeding

29.3.30

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in a court it was necessary in each case to examine the precise nature of the proceeding and the constitution of the authority before whom such proceeding was taken We find no particular procedure laid down in the Mouzrai Regulation or in the Government orders in force previously for enquiry in such matters; they were dealt with by the Executive officers purely as administrative matters and not in the exercise of any judicial functions. We have perused the records of enquiry before the Mouzrai authorities and we think that the officers discharged purely executive functions in the disposal of this case and did not

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do any judicial act.

Further Section 14 of the Limitation Regulation requires that the court should have been unable to entertain the proceeding from defect of jurisdiction or other cause of a little nature. Explanation III provides that for the purposes of this section misjoinder of parties or of causes of action shall be deemed to be a cause of like nature with defect of jurisdiction. The order in the present case so far as it is necessary for the present purpose runs thus:—

"It would appear that on account of disputes between the people of the different villages [illegible]

19.3.30

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to 1883, about the taking of the deity in procession, the matter was referred to arbitration and a decision arrived at But as to whether this decision was given effect to and how long the Kathaaraghatta people were giving their deity to the people of other Villages, there is no clear evidence The petitioners have by their own admission been excluded from their right, if any, to take the deity for the last 16 years. For a long time the right has been in dispute. In these circumstances I am not prepared to pass an order recognising their

29.3.30

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their right to take the deity and directing the Kathara gauda people to give it".

From a perusal of the order it is clear that it was not from defect of jurisdiction or other cause of a like nature that the claim was rejected. The case has been disposed of on merits and the rider at the end that the parties may if so advised, establish their right in a civil court in the first instance and then come here for relief, does not show that the officer had no jurisdiction to grant the relief claimed. As it cannot be held that there was any

defect

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defect of jurisdiction or other cause of a like nature the plaintiffs cannot claim the exemption provided by Section 14 of the Limitation Regulation. (See 104 Indian Cases 726) If Section 14 is inapplicable, then the suit filed nearly 20 years after the right was denied, is clearly barred by limitation

The Deputy Commissioner disposed of the case nearly 8 years after the Mysore Regulation came into force. His order is not one passed under Sections 9, 10 and 11 of the Regulation and the present suit is not one for cancellation of such order and the Mysore

Officer

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Officer is also not a party to the suit. It is not denied that the Mouzrai officer has power to pass an order in cases like this. Under Section 38, in all matters in which a Mouzrai officer or Government has power to pass any order or to take any action, Civil Court shall exercise jurisdiction only to the extent allowed by this Regulation. As the present case is not one which can be litigated in a civil court under the Regulation, the lower courts were right in holding that the suit was not maintainable under Section 38 of the Mouzrai Regulation

In this view we consider it

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MYSORE

unnecessary to discuss the point raised by the lower appellate court whether the suit is not one of a civil nature.

This second appeal accordingly fails and is dismissed with costs.

(Signed) D. K Rama Rao

Judge

(Signed) G. Sreenivasa Iyer

Judge

True copy

[illegible]

Deputy Registrar

HIGH COURT OF MYSORE

28·2·30

Lodged to [illegible]

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TWO RUPEES

Before the Govt. H.H. The Maharaja of Mysore

~~IN THE COURT OF~~

Mun. Ap. of 1930-31.

Appts.

Patel Byare Gowda & c.

vs.

Respts.

1. Mari Gowda & c

VAKALATNAMA

executed by the appts. ..... in favour of MESSRS. C. LAKSHMANA GOUDA, B. A., B. L., Advocate, ~~and N. V. NARAYANA MURTHY, B. A., B. L., Advocate.~~

WE hereby empower the said advocates, in person or by proxy, on MY/OUR behalf, to appear in, and conduct the above case, as well as any proceedings arising out of and connected with the same, to compromise the same, and to do all such acts as may be proper and necessary for the due conduct thereof including the signing, and presentation in Court, of the necessary petitions and papers.

And I/WE further authorize the said advocates to receive, and give receipts for, any money, document, or other moveable property, that is, or may become, payable or deliver able to ME/US in the course of the said case or proceedings.

15-7-1930.

I know the executant who have signed before me.

C.L.

Accepted. C. Lakshmana Gowda

S. Press, Bangalore City.

the 7th August

296
Inam Partition issues

Rajakaryapravina
P.C. D'Souza., Esq., B.A., B.L.,
Muzrai Commissioner in Mysore, Bangalore.

In forwarding herwith an appeal petition dated 28-7-30 from Patel Dyave Gowda and others of Chennarayapatna taluk appealing against your order dismissing the appeal preferred by them against the order of the Deputy Commissioner HassanDistrict declining to recognise their right to take the idol of Kattarighattadamma to their villages for annual Rathotsava, I am directed to request you to submit a report in the matter along with the connected records.

I have the honor to be,
Sir,
Your most obedient servant,
V Subrahmanyasastry
for Financial Secretary to Govt.

GS 7/8 Favr Aff:

SUBJECT.....

Section Mesc

File No. 56-30

Serial No. 2

No. 296/ Encl. Etc. misc. items

Diary No. of letter replied to.....

...eral and Revenue Secretariat

( )

the *192*

To

The Mug. Comm^r.

in Mysore

Date of issue 7-8-30

Signed by M. V. S. Sastry

Sir,

In forwarding herewith an appeal petition dated 28-7-30 from Patel Byave Gowda and others of Chennarayapatna Taluk appealing against your order dismissing the appeal preferred by them against the order of the Dy. Comm^r. Hassan declining to recognise their right to take the title of Kattarigenthidaru to their villages

over

List of enclosures.....

Copied by.....

Examined by.....

Rathotsava. Sam directed to request.
You to submit ~~the Connected~~
~~records with~~ a report in the matter
along with the Connected records

I have etc.

7.8.30

For Fnl: Secy to Govt:
GS MSK
4/8

M. C. 13]

No 252 Re records. 30-31

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE.

Bangalore, 21st January 1931.

23

FROM

Y. Narasinga Rao, Esq., B.A., B.L.,

Muzrai Commissioner in Mysore.

In Charge.

To

Rajasevaparayana
B. Srinivasa Iyengar, Esq., B.A., B.L.,

Secretary to Government of His Highness the Maharaja of Mysore,

Financial *Department.*

SIR,

'Records relating to the right of Patel Dyavegowda and -- others of Vagaranahalli in Chennarayapatna Taluk to -- take the idol of Kattarighattadamma to their village fc annual Rathotsavam.

As desired in your letter No. 296/Muz.56-30-2 dated 7th -- August 1930 I have the honor to forward herewith the marginally note

1. File No.1. Pages 1 to 180. 2. " " 11. " 1 to 68. 3. " "R.69/22-23 of this office.	files relating to the above subject and to state that t

facts of the case are fully set forth in the Deputy Commissioner's c in his Appeal No.1/21-22 dated 10th July 1922 (vide PP.64-66 of fil No.11).

The 5 enclosures received with your letter under advertan returned herewith.

I have the honor to be,

Sir,

Your most obedient servant,

Y. Narasinga Rao

Muzrai Commissioner.

In Charge.

ಎರಡು TWO RUPEES ರೂ.

ಹೊಸಕೋಟೆಯ ಮುನಸೀಫ್ ಕೋರ್ಟಿನಲ್ಲಿ

1930 -1931 ನೇ ಇಸವಿ Mus. Appeal ನಂಬರು 5

ವಾದಿ	ಪ್ರತಿವಾದಿ
Appellants	Respondent
Kalegowda and others	1) [illegible] 2) Marigowda

ಬರೆಸಿಕೊಟ್ಟ ವಕಾಲತ್ ನಾಮ

ಮೇಲ್ಕಂಡ ನಂಬರು ಮೊಖದ್ದಮೆಯಲ್ಲಿ ತಾವು ನನ್ನ ಪರವಾಗಿ ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ವಿವಾದಿಸಿ ಫೈಸಲ್ ಹೊಂದುವುದಕ್ಕೂ ಈ ಮೊಖದಮೆಗೆ ಸಂಮಂಧಪಟ್ಟ ವಿಶಿಷ್ಟ ಸಡವಳಿಕೆಗಳ ವಿಷಯದಲ್ಲೂ ಅರ್ಜಿ ವಗೈರೆ ಕೊಡುವುದಕ್ಕೂ, ಕೋರ್ಟಿನಿಂದ ನನಿಗೆ ಸಲ್ಲತಕ್ಕ ಡಿಕ್ರಿಮೊಬಲಗು ಕಿಲ್ಲು ಮೊಬಲಗು ಸವಾ ಸಡೆದುಕೊಂಡು ರಸೀದಿ ಕೊಡುವುದಕ್ಕೂ, ಕೋರ್ಟಿನಿಂದ ನನಿಗಾಗಿ ವಾಪಸು ಆಗುವ ದಾವಾಸ್ಟಾಂಪು ಸ್ಟ್ರೊಂಸಸ್ಟಾಂಪು ಸಹಾ ಪಡೆದುಕೊಳ್ಳುವುದಕ್ಕೂ ಮತ್ತು ನನ್ನ ಬಾಬತು ವಿಶಿಷ್ಟ ಗಸ್ತೇವೇಜು ವಗೈರೆಗಳನ್ನು ಕೋರ್ಟಿನಿಂದ ವಾಪಸು ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೂ ಜಾರಿ ಮಾಡಿದ್ದಮೆಗಳನ್ನು ಮೇಲ್ಕಂಡಂತೆ ನಡಿಸುವುದಕ್ಕೂ ತಮಗೆ ಸೂಕ್ತ ತೋಂದಂತೆ ನೊಮುದ್ದಮೆ ರಾಜಿಮಾಡಿಕೊಂಡು ರಾಜಿನಾಮೆ ಹಾಜರ್ಮಾಡುವುದಕ್ಕೂ, ಸಹಾ ಈ ಮೂಲಕ ತಮಿಗೆ ಅಧಿಕಾರಕೊಟ್ಟಿರುತ್ತೇನೆ, ಈ ವಿಷಯದಲ್ಲಿ ತಾವಾಗಲಿ ತಮಗೋಸ್ಕರ ಮತ್ತಾವ ಲಾಯರಾಗಲಿ ನಡಿಸುವ ಕೆಲಸಗಳೆಲ್ಲಾ ನಾನು ನಿಮ್ಮು ಇಮ್ಮು ನಡಿಸಿದಂತೆ ಒಪ್ಪಲು ಬದ್ಧನಾಗಿದ್ದೇನೆ.

ಇಷ್ಟಕಾಲ ಈ ಮೇಲಿಂದವನಾದ ಕಲೆಗೌಡ

ತಾರೀಖು

ಒಪ್ಪಿದ್ದೇನೆ.

ನನಗೆ ಪರಿಚಯಸ್ತನಾಗಿ ನಮ್ಮ ಸಮಕ್ಷಮ ರುಜು ಮಾಡಿರುವದ್ದರಿಂದ ಸರ್ಟಿಫೈ ಮಾಡಿದ್ದೇನೆ.

13 NO 11-11-31

MUZRAI

To

The Financial Secretary

to the Govt. of H.H. The Maharaja of Mysore,

Ref: Yours No. 450/Muz. d. 28-9-31.

Subject: Muz. Ap. 5 of 1930-31 re Deity of Katharigatta.

Sir,

Re the above, I made a draft of the terms on which the respdts. should allow my clients to perform the utsava of the Deity in question, in which draft I have tried my best to meet the view point of the respts., and their advocate (Mr. Konanur Shamanna) to whom I handed over the draft as below, on 11-8-31 for him to ge the approval of his clients, expressed his personal view that the terms were reasonable. I have been repeatedly reminding the said advocate about the matter and he has stated that he duly forwarded my draft to his clients but that they have not chosen to reply in spite of several reminders. I have therefore to conclude that they are unwilling to concede the justice of

(P.T.O.)

applts' prayer - in favour of which the Court was pleased to express itself on 27-7-31 - and are delaying in order to put off the evil day.

I am, Sir,
Yours very truly,

Draft of terms [illegible].

R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc. not intended for permanent record]

Reply from the Secretary of State for Dominion Affairs is awaited.

16/11 — Please put up a draft reply thanking the Government of the Union of South Africa for their kind invitation.

Yes

H. Lacey) 15

16.11.31

R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

N.B —Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

Appendix F G—1]

SUBJECT 97

.....

.....

Section Mucy 3

File No.

Serial No.

Diary No. of letter replied to 1017

No. 1577/Mucy.

To

Mr Konanur Shamanna.
Advocate. Bangalore City.

General and Revenue Secretariat

( )

the *193* .

Date of issue 29-4-32

Signed by H.B. Muddukrishna

Subject:- Mucy Appl No 5 of 30-31 re: ~~the rights~~ of the residents of Vaguda and Baladare, Channagiri Taluk to take Kallu Gantige down to their Villages for annual Rathotsava purposes —

List of enclosures .....

Copied by .....

Examined by .....

Sir,

The above Case was called on 25/4/32 and Sri. Subba Rao Adv appeared for ~~the petitioners~~ us. The

Appellants ~~made an offer~~ and a
~~Copy of the offer~~ received from
~~Their Advocate~~ Mr. C. Lakshmana Gowd
~~proposal~~.
was sent to you with this office
letter No 724/ Mun 56-30 & 20/4/31
for ~~containing~~ requiring what ~~by~~ your Clients had to say on it
~~Views and forwarding a report in the matter~~

No report has so far been
received in reply. In these
Circumstances, I am directed
to inform you that if your
Clients do not effect a compromise
arrangement with the appellants
and ~~if you fail to~~ report the same
within a month from the date of receipt of this Communicat
orders will be
passed on the appeal without
allowing any more time.

Yours faithfully

27/4/32

for Secretary
Deputy

C3
Coll

Appendix F G—1]

SUBJECT .....

.....

.....

Section Mis 3

File No.

Serial No.

V 1057

Diary No. of letter replied to .....

No 1049

To

Konamur

Shamanna Esq

Advocate

Bangalore City

General and Revenue Secretariat

( )

the *193* .

Date of issue 30/1/32

Signed by Mr. A. Subba Rao

Subject:— Mis AMT No 5 of 30-31 about the rights of the assignee of Vaguhalli Balabhe Channagapatna Tq to take Kallarighattadinda within respective Villages for annual Rathotsava before.

TYPING SECTION 29 JAN 1932 F. L & REV SECT.

List of enclosures .....

Copied by .....

Examined by .....

Was Li

W D 71—GPBM—40 000—20 7 31

This office letter No. 4 S-1 dt 28/9/31
& 724 dt 20/11/31 on the above
subject and to request you to kindly
state when a report in the matter may be expected.

Yours truly

28/11
Mr See
Floor

EE
29/11

Before the Government of His Highness the Maharaja

of M y s o r e.

Mag. Appeal No.5 of 1930-31.

Appellants.	Vs:-	Respondents.
Patel Dyave Gowda of Vaggahalli, Channarayapatna Taluk and Kalo Gowda and others of Eglanddo, Channarayapatna Taluk.		Patel Hari Gowda alias Kalo Gowda and other residents of Kaveripighatta, Jandig Mahalli Hobli, Channarayapatna Taluk.

Appeal against order No.J.371 of 22-25 dated 15th February 1929 passed by the Mysore Commissioner dismissing the appeal preferred by the appellants in regard to their right to take the idol of Kathari Hatti Gowda to their villages for annual Mathotsava.

This case was called on 23rd March 1931 and 18th May 1931. On both those dates the respondents were not present though notices were served on them and were duly represented by any Counsel. It was then posted to 17th July 1931, on which date the case was heard. The appellants were represented by their advocate Mr.C.Lakshmana Gowda and the respondents by Mr. Konanur Shamanna.

O R D E R.

The appellants claim the privilege of taking to their villages the idol of Kaveripighatta or Kathari Hatti Gowda village, Channarayapatna Taluk for purposes of Mathotsava and urge that this privilege is only enjoyed by Maavali. The Amny Commissioner and the Mysore Government have held that this privilege, even if it was enjoyed in the past, has fallen into desuetude for a very long period and have therefore declined to permit its revival. This dispute is best settled by agreement but as the parties are not able to

have

have been done once before in 1903 and this course was suggested to them in July 1931. No report of any such settlement has so far been received and apparently there is no prospect of an amicable understanding between the parties being arrived at. It is not desirable to introduce an innovation in a matter like this except with the consent of the parties concerned. The concurrent orders of the Deputy Commissioner and the Mysore Commissioner must, in these circumstances stand. The appeal is dismissed.

No. 1395 - Revenue 3 file 3rd April
Muz 56-30-4 Dated, Bangalore, the 30th March 1933.

Copy of the above is forwarded with compliments to the Muzrai Commissioner in Mysore returning records received with his letter No.252/30-31 dated 23rd January 1931.

By order,

For Financial Secretary to Govt.
GS

No. 1397 Dated, Bangalore, the 30th March 1933.
3 - 4 -

Copy of the above is forwarded to Mr. Konanur Shamanna Advocate for the respondents.

By order,

For Financial Secretary to Govt.
GS

No. 1396. Dated, Bangalore, the 30th March 1933.
3rd April

Copy of the above is forwarded to Mr. C. Lakshmana Gowda, Advocate for the appellants.

By order,

For Financial Secretary to Govt.
GS

(G)

Before the Government of His Highness the Maharaja of Mysore.

Civil Misc 20

Muz Appeal No. 5 of 1930-31

Appellant.s

Patel Dyave Gowda
of Vagavahalli
Channarayapatna
TK
Kale Gowda & others of Baladare
Channarayapatna TK

Subject.

Vs.

Respondent.s

Patel Mari Gowda
alias Kale Gowda
& other residents
of Kallarighatta,
Dandigavahalli
Hobli Channarayapatna
TK.

Appeal against order no C 371 of 22-23 & 15.2.23 passed by the M.C. dismissing the appeal preferred by the appellants in regard to their right to take the idol of Kallarighatta during their annual Rathotsava ~~during the Dasara~~.

This case was called on 23.3.31 and 6.5.31. On both these dates the respondents were not present though notices were served on them nor were they represented by any counsel. It was therefore posted to 27.7.31, on which date the case was heard. The appellants were represented by their advocate Mr. C. Lakshmanan Aiyar & the respondents by Mr. Kanakur Ramanna.

Pr. 3 by extra note Paras 10 & 12(a).

Page 5 Para 15

GPB—1,000—8-8-11

-ised to come to an
understanding the matter & the Lawyers
agreed to their clients report the
understanding as vested in a months.
As the promised report has not yet been received the case
Para 27 has again heard on 5/4/13 when the respondents
were not present though had been served
with Sum by K. Subba Rao & on behalf of the
Respondents' Lawyer Mr. Shamanna &
prayed for an adjournment which was not granted
further. The parties were advised to settle
differences by compromise. The petitioners made an
offer to which was to was not agreed from the
respondents. Proposal of the petitioners was
sent to the respondents' Advocate who asked
to report as his clients had gone. Subsequent
time has allowed & no report of any kind has been received

Order

Para 34 The petitioners claim the privilege of taking
to their Village the idol of Kallarighatta
& the Kallarighatta Village, Channarayapatna
Tk. for purposes of Rathotsava & urge that this
privilege is supported by memorial. The D.C & the
M.C. have held that this privilege, even if it
was exercised in the past, has fallen into disuse
for a very long period & have therefore declined
to permit its revival. This dispute is best
settled by agreement between the parties

OG. R. S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

as is stated to have been done once before in 1892 & the course was suggested to them in July 1931. No S/ET report of any such settlement has so far been received & apparently there is no prospect of an amicable understanding between the parties being arrived at. It is not desirable to introduce an innovation in a matter like this except with the consent of the parties concerned. The Concurrent orders of the D.C. & the M.C. meet, in these circumstances, stand. The appeal is dismissed.

1395/Mis 56-30-4-Lus 3 & 4
Copy to M/e 23-4-34
Record Rec'd from the Lus Tahsildar No 252/30 dt 23/1/1934.

GPB—20,000—7-7-14

Cdg to mr - Kumari Shamanna
- Advocate for the respondents

R - O

Pa:
21

(1)
Vrj
for Hrse

1396 of 3-4-33
Cdg to mr C. Lakshmanagouda
Advocate for the appellants —

B. O

Vrj
Vrj for Hrse

G.V
21/3